ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು

ಚುಕ್ಕೆ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂ.	1391
ಮಾನ್ಯ ಸದಸ್ಯರ ಹೆಸರು	ಶ್ರೀ ಮರಿತಿಬ್ಬೇಗೌಡ (ಶಿಕ್ಷಕರ ಕ್ಷೇತ್ರ)
ಉತ್ತರಿಸಬೇಕಾದ ದಿನಾಂಕ	23-09-2021
ಉತ್ತರಿಸಬೇಕಾದವರು	ಅಬಕಾರಿ ಸಚಿವರು

ಕ್ರ ಸಂ	ಪ್ರಶ್ನೆ	ಉತ್ತರ
ಅ)	ಅಬಕಾರಿ ಇಲಾಖೆಯಲ್ಲಿ ಮದ್ಯ ಮಾರಾಟಕ್ಕೆ ಯಾವ ಯಾವ ರೀತಿಯ ಪರವಾನಗಿಗಳನ್ನು ನೀಡಲಾಗುತ್ತಿದೆ; (ಪರವಾನಗಿಯ ವಿವರಗಳೊಡನೆ)	ಅಬಕಾರಿ ಇಲಾಖೆಯಲ್ಲಿ ಮದ್ಯ ಮಾರಾಟಕ್ಕೆ ಕೆಳಕಂಡ ವಿವಿಧ ರೀತಿಯ ಪರವಾನಗಿಗಳನ್ನು ನೀಡಲಾಗುತ್ತಿದೆ:

ಕ್ರಸಂ	ಸನ್ನದು	ವಿವರ
1	ಸಿಎಲ್-2	ಸೀಲ್ಡ್ ಬಾಟಲ್ ಗಳಲ್ಲಿ ಮಾತ್ರ ಚಿಲ್ಲರೆ ಮದ್ಯ ಮಾರಾಟಕ್ಕಾಗಿ
2	ಸಿಎಲ್-4	ಕ್ಲಬ್‌ಗಳಿಗೆ
3	ಸಿಎಲ್-6(ಎ)	ಸ್ಟಾರ್ ಹೋಟೆಲ್‌ಗಳಿಗೆ
4	ಸಿಎಲ್-7	ಹೋಟೆಲ್ ಮತ್ತು ವಸತಿ ಗೃಹಗಳನ್ನು ಹೊಂದಿದವರಿಗೆ
5	ಸಿಎಲ್-7ಎ	ಟೂರಿಸ್ಟ್ ಹೋಟೆಲ್ ಸನ್ನದು
6	ಸಿಎಲ್-7ಬಿ	ಟೂರಿಸ್ಟ್ ಹೋಟೆಲ್ ಬೀರ್ ಬಾರ್ ಸನ್ನದು
7	ಸಿಎಲ್-7ಸಿ	ಚಲಿಸುವ ರೈಲಿಗೆ ಕೆ.ಎಸ್.ಟಿ.ಡಿ.ಸಿ / ಐ.ಟಿ.ಡಿ.ಸಿ ಇಲಾಖೆಯಿಂದ ನಡೆಸುವ ಸಲುವಾಗಿ ನೀಡುವ ಸನ್ನದು
8	ಸಿಎಲ್-8	ಮಿಲಿಟರಿ ಕ್ಯಾಂಟಿನ್
9	ಸಿಎಲ್-8ಎ	ಮಿಲಿಟರಿ ಕ್ಯಾಂಟಿನ್ ಸ್ಟೋರ್ಸ್ ಬಾಂಡೆಡ್ ವೇರ್ ಹೌಸ್ ಸನ್ನದು
10	ಸಿಎಲ್-8ಬಿ	ಬಿ.ಎಸ್.ಎಫ್ ಮತ್ತು ಪ್ಯಾರಾ ಮಿಲಿಟರಿ ಫೋರ್ಸ್ ಸನ್ನದುಗಳು
11	ಸಿಎಲ್-9	ರೀಫ್ರೇಶ್ ಮೆಂಟ್ ರೂಮ್ (ಬಾರ್) ಸನ್ನದು
12	ಸಿಎಲ್-11-ಸಿ	(ಎಂಎಸ್‌ಐಎಲ್)
13	ಸಿಎಲ್-14 in ಫಾರ್ಮ್ ಸಿಎಲ್-16	(ಅಂತರರಾಷ್ಟ್ರೀಯ ವಿಮಾನ ನಿಲ್ದಾಣದಲ್ಲಿನ ಡ್ಯೂಟಿ ಫ್ರೀ ಮದ್ಯದಂಗಡಿ)
14	ಸಿಎಲ್-15ಎ in ಫಾರ್ಮ್ ಸಿಎಲ್-17	(ಅಂತರರಾಷ್ಟ್ರೀಯ ವಿಮಾನ ನಿಲ್ದಾಣದಲ್ಲಿನ ಸ್ಥಳೀಯ ಮತ್ತು ಅಂತರರಾಷ್ಟ್ರೀಯ ವಿಮಾನ ಪ್ರಯಾಣಿಕರಿಗೆ ರೀಫ್ರೇಶ್ ಮೆಂಟ್ ರೂಮ್ (ಬಾರ್) ಸನ್ನದು)

		<table><tr><td>15</td><td>ಸಿಎಲ್–15ಬಿ in ಫಾರ್ಮ್ ಸಿಎಲ್–18</td><td>(ಅಂತರರಾಷ್ಟ್ರೀಯ ವಿಮಾನ ನಿಲ್ದಾಣದಲ್ಲಿನ ಅಂತರರಾಷ್ಟ್ರೀಯ ವಿಮಾನ ಪ್ರಯಾಣಿಕರಿಗೆ ರೀಫ್ರೆಶ್ ಮೆಂಟ್ ರೂಮ್ (ಬಾರ್) ಸನ್ನದು)</td></tr></table> 1992ನೇ ಸಾಲಿನಿಂದ ಹೊಸದಾಗಿ ಸಿಎಲ್–2 ಮತ್ತು ಸಿಎಲ್–9 ಸನ್ನದನ್ನು ನೀಡಲು ನಿರ್ಬಂಧವಿರುವುದರಿಂದ ಅಬಕಾರಿ ಇಲಾಖೆಯಿಂದ ಯಾವುದೇ ಹೊಸ ಸಿಎಲ್–2 ಮತ್ತು ಸಿಎಲ್–9 ಸನ್ನದಿಗೆ ಮಂಜೂರಾತಿ ನೀಡಲಾಗುತ್ತಿಲ್ಲ.
ಆ)	ಪರವಾನಗಿಗಳನ್ನು ನೀಡುವಲ್ಲಿ ಅನುಸರಿಸುತ್ತಿರುವ ಮಾನದಂಡಗಳೇನು; (ಪ್ರತ್ಯೇಕವಾಗಿ ವಿವರಗಳೊಡನೆ)	ಪ್ರಸ್ತುತ ಹೊಸದಾಗಿ ಸಿಎಲ್–2 ಮತ್ತು ಸಿಎಲ್–9 ಸನ್ನದನ್ನು ನೀಡಲು ನಿರ್ಬಂಧವಿರುವುದರಿಂದ ಅಬಕಾರಿ ಇಲಾಖೆಯಿಂದ ಯಾವುದೇ ಹೊಸ ಸಿಎಲ್–2 ಮತ್ತು ಸಿಎಲ್–9 ಸನ್ನದಿಗೆ ಮಂಜೂರಾತಿ ನೀಡಲಾಗುತ್ತಿಲ್ಲ. ರಾಜ್ಯದಲ್ಲಿ ಸಿಎಲ್–2, ಸಿಎಲ್–4, ಸಿಎಲ್–6ಎ, ಸಿಎಲ್–7, ಸಿಎಲ್–9, ಸಿಎಲ್–11ಸಿ, ಆರ್ ವಿ ಬಿ ಮತ್ತು ಇತರೆ ಪರವಾನಗಿಗಳನ್ನು ನೀಡುವಾಗ ಈ ಕೆಳಕಂಡ ನಿಯಮಗಳನ್ನು ಪಾಲಿಸಿ ನೀಡಲಾಗುತ್ತಿದೆ: 1) **ಸಿಎಲ್–2, ಸಿಎಲ್–4, ಸಿಎಲ್–6ಎ, ಸಿಎಲ್–7, ಸಿಎಲ್–8, ಸಿಎಲ್–9 ಸನ್ನದುಗಳು:** ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶಿ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು 1968 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳಲ್ಲಿ ಅಗತ್ಯವಾಗಿ ಕಲ್ಪಿಸಬೇಕಾಗಿರುವ ಮೂಲಭೂತ ಸೌಲಭ್ಯಗಳು ಮತ್ತು ನಿಯಮಗಳಲ್ಲಿನ ನಿರ್ಬಂಧಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ–1** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. 2) **ಸಿಎಲ್–4, ಸಿಎಲ್–6ಎ, ಸಿಎಲ್–7, ಸಿಎಲ್–9 ಸನ್ನದುಗಳಿಗೆ ಹೊಂದಿಕೊಂಡಿರುವ ಆರ್‌ವಿಬಿ ಸನ್ನದುಗಳು:** ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಚಿಲ್ಲರೆಯಾಗಿ ಬೀಯರ್‌ನ್ನು ಮಾರಾಟ ಮಾಡುವ ಗುತ್ತಿಗೆ) ನಿಯಮ 1976 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳು ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಸನ್ನದುಗಳ ಅಗತ್ಯವಾಗಿ ಕಲ್ಪಿಸಬೇಕಾಗಿರುವ ಮೂಲಭೂತ ಸೌಲಭ್ಯಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ–2** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. 3) **ಮೈಕ್ರೋಬ್ರಿವರಿ ಸನ್ನದುಗಳು:** ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರೀವರಿ) (ತಿದ್ದುಪಡಿ) ನಿಯಮಗಳು 2010 ರಡಿಯಲ್ಲಿ ರೂಪಿತವಾಗಿರುವ ನಿಯಮಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ–3** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. 4) ವೈನ್ ಟಾವರಿನ್/ವೈನ್ ಬೋಟಿಕ್ ಸನ್ನದುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯಿದೆ 1965 ಮತ್ತು ಅದರಡಿ ರೂಪಿತವಾಗಿರುವ ಕರ್ನಾಟಕ ಅಬಕಾರಿ

		(ಚಿಲ್ಲರೆಯಾಗಿ ವೈನನ್ನು ಮಾರಾಟ ಮಾಡುವ ಹಕ್ಕು) ನಿಯಮಗಳು 2008 ರಡಿಯಲ್ಲಿನ ನಿಯಮಗಳು. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-4** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. ಈ ಮೇಲಿನ ಎಲ್ಲಾ ಸನ್ನದುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು 1967 ರಲ್ಲಿನ ನಿಯಮಗಳಡಿ ರೂಪಿಸಿರುವ ನಿರ್ಬಂಧಗಳನ್ನು ಪಾಲಿಸಬೇಕಾಗುತ್ತದೆ. ನಿಯಮಗಳ ಪ್ರತಿಯನ್ನು **ಅನುಬಂಧ-5** ರಲ್ಲಿ ನೀಡಲಾಗಿದೆ. ಮುಂದುವರೆದು, ಈ ಎಲ್ಲಾ ಸನ್ನದುಗಳನ್ನು ಮಂಜೂರು ಮಾಡುವಾಗ ಅರ್ಜಿದಾರರುಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶಿ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968ರ ನಿಯಮ 4(ಬಿ) ಪ್ರಕಾರ ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಬ್ರಿವರಿ) ನಿಯಮಗಳು 1967ರ ನಿಯಮ 5(ಬಿ) ರನ್ವಯ ಅನರ್ಹರಾಗದಿರುವ ಬಗ್ಗೆ ಸ್ವಯಂಘೋಷಿತ ಮುಚ್ಚಳಿಕೆಯನ್ನು ಪಡೆಯಲಾಗುತ್ತಿರುತ್ತದೆ. ರಾಜ್ಯದಲ್ಲಿ ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸನ್ನದುಗಳನ್ನು ಮಂಜೂರು ಮಾಡಲು ಸರ್ಕಾರ ಅನುಸರಿಸುವ ಮಾರ್ಗಸೂಚಿಗಳು ಕೆಳಕಂಡಂತಿವೆ: ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಮಳಿಗೆಗಳನ್ನು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಭಾರತೀಯ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯಗಳ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968 ರ ನಿಯಮ-3(11-ಸಿ), 8, 8(ಎ) ಹಾಗೂ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967ರ ನಿಯಮ-5ರ ಪ್ರಕಾರ ನಿಬಂಧನೆಗಳನ್ನು ಪಾಲಿಸಿ ಮಂಜೂರು ಮಾಡಲು ಪೂರ್ವಾನುಮತಿ ನೀಡಲಾಗುವುದು. ಸರ್ಕಾರದ ಪತ್ರ ಸಂಖ್ಯೆ:ಎಫ್‌ಡಿ 07 ಇಎಫ್‌ಎಲ್ 2008 ದಿನಾಂಕ: 03.07.2009 ರಲ್ಲಿ ಪ್ರತಿ ತಾಲ್ಲೂಕಿಗೆ ಕನಿಷ್ಟ 2 ರಂತೆ 352 ಸನ್ನದುಗಳು, ಜಿಲ್ಲಾ ಕೇಂದ್ರಸ್ಥಾನಕ್ಕೆ 2 ರಂತೆ 58 ಸನ್ನದುಗಳು ಹಾಗೂ ಎಂಎಸ್‌ಐಎಲ್ ಸಂಸ್ಥೆ ಪ್ರಾದೇಶಿಕ ಬೇಡಿಕೆ ಅಧ್ಯಯನ ಆಧರಿಸಿ ಕೋರಿಕೆ ಸಲ್ಲಿಸುವ ಸ್ಥಳಗಳಿಗೆ 53 ಸನ್ನದುಗಳಂತೆ ಒಟ್ಟು 463 ಸನ್ನದುಗಳನ್ನು ಹಂಚಿಕೆ ಮಾಡಲಾಗಿದೆ. ಮುಂದುವರೆದು, ಸರ್ಕಾರದ ಪತ್ರ ಸಂಖ್ಯೆ: ಎಫ್‌ಡಿ 15 ಇಎಫ್‌ಎಲ್ 2015 ದಿ:23.09.2016 ರಲ್ಲಿ ಕೆಳಕಂಡ ಷರತ್ತುಗಳ ಮೇಲೆ ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಗೆ ಒಟ್ಟು 900 ಸನ್ನದುಗಳನ್ನು ಹೆಚ್ಚುವರಿಯಾಗಿ ಮಂಜೂರು ಮಾಡಲು ಅನುಮೋದನೆ ನೀಡಲಾಗಿದೆ. i. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯೇ ತನ್ನ ವಾಣಿಜ್ಯ ಕಾರ್ಯಸಾಧ್ಯತೆಗೆ ಅನುಗುಣವಾಗಿ ಸನ್ನದುಗಳ ಸ್ಥಳವನ್ನು ನಿಗಧಿಗೊಳಿಸುವುದು. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯ ಅಧಿಕಾರಿಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯ್ದೆಯನ್ವಯ ಮದ್ಯದಂಗಡಿಗಳನ್ನು ತೆರೆಯುವ ನಿರ್ದಿಷ್ಟ ಸ್ಥಳಗಳನ್ನು ಗುರುತಿಸುವುದು.

		ii. ಈ ರೀತಿ ಗುರುತಿಸುವ ಸ್ಥಳಗಳು ಸರ್ಕಾರವು ತಿಳಿಸಿರುವ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರದ ವ್ಯಾಪ್ತಿಯಲ್ಲೇ ಇರಬೇಕು ಹಾಗೂ ನಿಗದಿಪಡಿಸಿರುವ ಸಂಖ್ಯೆಯ ಮಿತಿಯಲ್ಲೇ ಇರಬೇಕು. iii. ಒಂದು ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರ ವ್ಯಾಪ್ತಿಯಿಂದ ಮತ್ತೊಂದು ವಿಧಾನಸಭಾ ಕ್ಷೇತ ವ್ಯಾಪ್ತಿಗೆ ವರ್ಗಾವಣೆ ಆಗದಂತೆ ನೋಡಿಕೊಳ್ಳತಕ್ಕದ್ದು. iv. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯಿಂದ ಸನ್ನದು ಸ್ಥಳಗಳನ್ನು ಗುರುತಿಸಿ ಇಲಾಖೆಗೆ ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿದ ನಂತರ ಅಂತಹ ಸನ್ನದು ಸ್ಥಳಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967ರ ನಿಯಮ 5 ರನ್ವಯ ಆಕ್ಷೇಪಣಾ ರಹಿತ ಸ್ಥಳದಲ್ಲಿರುವಂತೆ ಹಾಗೂ ಇತರೆ ಸಂಬಂಧಿಸಿದ ನಿಯಮಗಳಿಗೆ ಪೂರಕವಾಗಿರುವಂತೆ ಸಂಬಂಧಪಟ್ಟ ಅಬಕಾರಿ ಉಪ ಆಯುಕ್ತರು ನೋಡಿಕೊಳ್ಳುವುದು. ಮುಂದುವರೆದು, ಸರ್ಕಾರದ ಪತ್ರ ಸಂಖ್ಯೆ: ಎಫ್‌ಡಿ 08 ಇಎಫ್‌ಎಲ್ 2020 ದಿ:08.09.2020 ರಲ್ಲಿ ಈಗಾಗಲೇ ಮಂಜೂರು ಮಾಡಿರುವ ಒಟ್ಟು 900 ಸನ್ನದುಗಳ ಪೈಕಿ ಬಾಕಿ ಉಳಿದಿರುವ 441 ಸನ್ನದುಗಳನ್ನು ಕೆಳಕಂಡ ಷರತ್ತುಗಳ ಮೇಲೆ ಪ್ರಾರಂಭಿಸಲು ಸರ್ಕಾರದ ಅನುಮೋದನೆ ನೀಡಲಾಗಿದೆ. 1. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯೇ ತನ್ನ ವಾಣಿಜ್ಯ ಕಾರ್ಯಸಾಧ್ಯತೆಗೆ ಅನುಗುಣವಾಗಿ ಸನ್ನದುಗಳ ಸ್ಥಳವನ್ನು ನಿಗಧಿಗೊಳಿಸುವುದು. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯ ಅಧಿಕಾರಿಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ ಕಾಯ್ದೆಯನ್ವಯ ಮದ್ಯದಂಗಡಿಗಳನ್ನು ತೆರೆಯುವ ನಿರ್ದಿಷ್ಟ ಸ್ಥಳಗಳನ್ನು ಗುರುತಿಸುವುದು. 2. ಸಿಎಲ್-11(ಸಿ) ಕೋಟಾದಲ್ಲಿನ ಬಾಕಿ ಇರುವ 441 ಚಿಲ್ಲರೆ ಮದ್ಯ ಮಾರಾಟ ಸನ್ನದುಗಳ ಪೈಕಿ ಯಾವುದಾದರೂ ಸನ್ನದನ್ನು ಒಂದು ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರ ವ್ಯಾಪ್ತಿಯಿಂದ ಮತ್ತೊಂದು ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರ ವ್ಯಾಪ್ತಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡುವುದಾದಲ್ಲಿ ಅದೇ ಜಿಲ್ಲೆಯ ಬೇರೆ ಯಾವುದಾದರೂ ಅಗತ್ಯವಿರುವ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರಕ್ಕೆ ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967ರ ನಿಯಮ 5 ರನ್ವಯ ಆಕ್ಷೇಪಣಾ ರಹಿತ ಸ್ಥಳಕ್ಕೆ ದಿನಾಂಕ:31.12.2020 ರೊಳಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿಕೊಳ್ಳತಕ್ಕದ್ದು. 3. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯಿಂದ ಸನ್ನದು ಸ್ಥಳಗಳನ್ನು ಗುರುತಿಸಿ ಅಬಕಾರಿ ಇಲಾಖೆಗೆ ಸಲ್ಲಿಸಿದ ನಂತರ ಅಂತಹ ಸನ್ನದು ಸ್ಥಳಗಳು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967ರ ನಿಯಮ 5 ರನ್ವಯ ಆಕ್ಷೇಪಣಾ ರಹಿತ ಸ್ಥಳದಲ್ಲಿರುವಂತೆ ಹಾಗೂ ಇತರೆ ಸಂಬಂಧಿಸಿದ ನಿಯಮಗಳಿಗೆ ಪೂರಕವಾಗಿರುವಂತೆ ಸಂಬಂಧಪಟ್ಟ ಅಬಕಾರಿ ಉಪ ಆಯುಕ್ತರು

		ನೋಡಿಕೊಳ್ಳತಕ್ಕದ್ದು. ಸರ್ಕಾರದ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ: ಎಫ್‌ಡಿ 65 ಇಡಬ್ಲ್ಯೂಪಿ 2020, ದಿನಾಂಕ: 09-10-2020 ರನ್ವಯ ವಿಧಿಸಿರುವ ಈ ಕೆಳಕಂಡ ಷರತ್ತುಗಳನ್ನು ದೃಢೀಕರಿಸಿಯೇ ಪ್ರಸ್ತಾವನೆಗಳನ್ನು ಸಲ್ಲಿಸಬೇಕಾಗಿ ಸರ್ಕಾರವು ಸೂಚಿಸಿರುತ್ತದೆ. 1. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯು ಸಿಎಲ್-11 ಸಿ ಸನ್ನದಿಗಾಗಿ ಅರ್ಜಿಯನ್ನು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಸನ್ನದುಗಳ ಸಾಮಾನ್ಯ ಷರತ್ತುಗಳು) ನಿಯಮಗಳು, 1967 ರ ನಿಯಮ 2 ರನ್ವಯ ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಭಾರತೀಯ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968 ರ ನಿಯಮ 4(1)(ಬಿ) ರ ನಮೂನೆ ಸಿಎಲ್-1ಎ ರಲ್ಲಿಯೇ ಸಲ್ಲಿಸತಕ್ಕದ್ದು. 2. ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯ ವತಿಯಿಂದ ಸಿಎಲ್-11 ಸಿ ಸನ್ನದಿಗಾಗಿ ಅರ್ಜಿ ಸಲ್ಲಿಸುವ ವ್ಯಕ್ತಿಯು ಎಂ.ಎಸ್.ಐ.ಎಲ್ ಸಂಸ್ಥೆಯ ನಿರ್ದೇಶಕ ಮಂಡಳಿಯಿಂದ ಅಧಿಕರಿಸಲ್ಪಟ್ಟಿರತಕ್ಕದ್ದು ಮತ್ತು ಅರ್ಜಿಯನ್ನು ನಮೂನೆ-ಸಿಎಲ್-1ಎ ರಲ್ಲಿ ಮತ್ತು ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ಭಾರತೀಯ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು, 1968 ರ ನಿಯಮ 4 ರ ಘೋಷಣೆಯನ್ವಯ ಸಲ್ಲಿಸತಕ್ಕದ್ದು. 3. ಈ ರೀತಿಯಾಗಿ ಅಧೀಕರಿಸಲ್ಪಟ್ಟ ವ್ಯಕ್ತಿಯು ಸನ್ನದಿಗಾಗಿ ಅರ್ಜಿಯನ್ನು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಿಯಾದ ಜಿಲ್ಲೆಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಗೆ ಸಲ್ಲಿಸತಕ್ಕದ್ದು.
ಇ)	ರಾಜ್ಯದಲ್ಲಿ ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಪರವಾನಗಿಗಳ ಸಂಖ್ಯೆ ಎಷ್ಟು; (ಪ್ರತ್ಯೇಕವಾಗಿ ವಿವರಗಳೊಡನೆ)	ರಾಜ್ಯದಲ್ಲಿ ಜೂನ್-2021ರ ಅಂತ್ಯಕ್ಕೆ ಒಟ್ಟು 11,565 ವಿವಿಧ ಬಗೆಯ ಅಬಕಾರಿ ಸನ್ನದುಗಳು ನವೀಕರಣಗೊಂಡು ಚಾಲ್ತಿಯಲ್ಲಿರುತ್ತದೆ. **ವಿವರಗಳನ್ನು ಅನುಬಂಧ-6ರಲ್ಲಿರಿಸಿದೆ.**
ಈ)	ಸದರಿ ಪರವಾನಗಿಗಳಿಗೆ ನಿಗದಿಗೊಳಿಸಲಾದ ವಾರ್ಷಿಕ ಶುಲ್ಕವೆಷ್ಟು? (ವಿವರಗಳೊಡನೆ)	ಕರ್ನಾಟಕ ಅಬಕಾರಿ (ದೇಶಿ ಮತ್ತು ವಿದೇಶಿ ಮದ್ಯ ಮಾರಾಟ) ನಿಯಮಗಳು 1968ರ ನಿಯಮ 8ರಲ್ಲಿ ವಿವಿಧ ಬಗೆಯ ಅಬಕಾರಿ ಸನ್ನದುಗಳಿಗೆ ಪ್ರತ್ಯೇಕವಾಗಿ ಹಾಗೂ ಪ್ರದೇಶವಾರು ಸನ್ನದು ಶುಲ್ಕ, ಹೆಚ್ಚುವರಿ ಸನ್ನದು ಶುಲ್ಕಗಳನ್ನು ನಿಗದಿಪಡಿಸಲಾಗಿದೆ. **ನಿಯಮದ ಪ್ರತಿಯನ್ನು ಅನುಬಂಧ-7ರಲ್ಲಿರಿಸಿದೆ.**

ಆಇ 107 ಇಎಲ್‌ಕ್ಯೂ 2021

(ಕೆ. ಗೋಪಾಲಯ್ಯ)
ಅಬಕಾರಿ ಸಚಿವರು

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ಅನುಬಂಧ-1

[1]THE KARNATAKA EXCISE (SALE OF INDIAN AND FOREIGN LIQUORS) RULES, 1968

(As amended by GSR 90, dated 22-2-1969; GSR 216, dated 13-6-1969; GSR 403, dated 19-11-1970; GSR 273, dated 3-8-1972; GSR 159, dated 19-6-1975; GSR 344, dated 14-10-1976; GSR 409, dated 23-11-1976; GSR 344, dated 23-12-1976; GSR 149, dated 14-6-1978; GSR 152, dated 14-6-1978; GSR 312, dated 16-10-1978; GSR 327, dated 25-10-1978; GSR 145, dated 3/8-5-1979; GSR 96, dated 24-4-1980; GSR 191, dated 28-6-1980; GSR 38, dated 6-2-1981; GSR 121, dated 11-5-1981; GSR 140, dated 20-6-1983; GSR 144, dated 24-6-1983; GSR 292, dated 16-12-1983; GSR 32, dated 24-1-1984; GSR 277, dated 30-11-1984; GSR 214, dated 1-8-1986; GSR 20, dated 17-1-1987; GSR 80, dated 25-3-1987; GSR 140, dated 29-6-1987; GSR 294, dated 9-11-1987; GSR 152, dated 24-6-1988; SO 1880, dated 11-8-1988; GSR 173, dated 13-9-1989; GSR 181, dated 28-9-1989; GSR 16, dated 6-2-1990; GSR 28, dated 13-3-1991; GSR 39, dated 21-3-1992; GSR 84, dated 7-5-1992; GSR 74, dated 15-4-1993; GSR 93, dated 30-4-1993; GSR 182, dated 20-9-1993; Notification No. FD 22 PES 93(I), dated 9-8-1994; GSR 105, dated 5-7-1994; Notification Nos. FD 10 PES 95(I), dated 31-5-1995; FD 12 PES 95(iv), dated 29-6-1996; FD 325 EDC 95, dated 13-2-1997; GSR 67, dated 7-6-1997; Notification Nos. FD 18 EDC 97(I), dated 18-10-1997; FD 7 PES 98(I), dated 10-6-1998; FD 3 PES 99(iv), dated 9-6-1999; FD 9 PES 2000, dated 23-6-2000; FD 12 PES 2000, dated 24-6-2000; FD 9 PES 2000, dated 18-11-2000; FD 23 PES 99(2), dated 18-11-2000, FD 2 PES 2001, dated 22-2-2001, FD 15 PES 2001, dated 4-7-2001; FD 13 PES 2001(4), dated 13-7-2001; FD 15 PES 99(I), dated 24-6-2002; FD 18 PES 2002, dated 29-6-2002; FD 18 PES 99(I), dated 29-8-2002; FD 20 PES 2002, dated 1-4-2003; FD 22 PES 2002, dated 22-4-2003; FD 9 PES 2003(5), dated 5-6-2003; FD 16 PES 2003(I), dated 30-6-2003; FD 14 PES 2003(I), dated 30-6-2003; FD 2 PES 2004, dated 3-2-2004; FD 36 PES 2003(5), dated 23-2-2004; FD 06 PES 2006(7), dated 19-6-2006; FD 09 PES 2007, dated 29-6-2007; FD 17 PES 2007, dated 12-2-2008; FD 01 PES 2008, dated 25-3-2008; FD 3 PES 2008, dated 22-11-2008; FD 7 PES 2008(I), dated 15-1-2009; FD 17 PES 2009, dated 3-8-2009; FD 08 PES 2013, dated 27-8-2013; FD 03 PES 2014(IV), dated 28-2-2014; FD 14 PES 2013, dated 9-6-2014; FD 06 PES 2011, dated 1-8-2014; FD 09 PES 2014(1), dated 15-12-2014; FD 02 PES 2016, dated 15-4-2016; FD 03 PES 2015, dated 28-5-2016; FD 11 PES 2016, dated 23-6-2016; FD 12 PES 2015, dated 30-6-2016 and FD 17 PES 2015, dated 6-11-2016.)

GSR 7.—In exercise of powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka, hereby makes the following rules, the draft of the same having been previously published, as required by sub-section (1) of Section 71 of the said

1. Published in the Karnataka Gazette, dated 11-1-1968 vide Notification No. HD 73 ELF 67, dated 4-1-1968.

*THE KARNATAKA EXCISE (SALE OF ARRACK) (REPEAL) RULES, 1999

Whereas, the draft of the following rules to repeal the Karnataka Excise (Sale of Arrack) Rules, 1997 was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) in Notification No. FD 17 PES 98, dated 8-12-1998 in Part IV, Section 2-C(i) of the Karnataka Gazette, Extraordinary inviting objections and suggestions from all persons likely to be affected thereby within fifteen days from the date of its publication in the Official Gazette.

And whereas, the said Gazette was made available to the public on [illegible]-12-1998.

And whereas, no objections/suggestions were received in respect of the said draft by the State Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, namely.—

1. **Title and commencement.**—(1) These rules may be called the Karnataka Excise (Sale of Arrack) (Repeal) Rules, 1999.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Repeal and savings.**—The Karnataka Excise (Sale of Arrack) Rules, 1997 are hereby repealed:

Provided that the said repeal shall not affect the previous operation of the said rules or anything duly done or suffered thereunder or affect any right, liability or obligation acquired or accrued under the said rules.

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*Published in the Karnataka Gazette, Extraordinary, No. 65, dated 11-1-1999, vide Notification No. FD 17 PES 98, dated 11-1-1999.

THE KARNATAKA EXCISE (SALE OF INDIAN AND FOREIGN LIQUORS) RULES, [illegible]

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(2) They shall apply to the sale of Indian liquor [illegible] and Foreign liquor.

(3) They shall come into force at once.

CASE LAW

Public interest petition filed under Article 32 not maintainable [illegible] sought to enforce Directive Principles under Article [illegible]

The writ petition filed under Article 32 of the Constitution [illegible] policy of prohibition is not being implemented [illegible] petition is not entertainable. Article 47 of the Constitution [illegible] Directive Principles of State Policy enjoins [illegible] raising of level of the standard of living of its people and the improvement in public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. Article 47 as in Part IV of the Constitution which contains Directive Principles of State Policy. Article 37 enjoins that the provisions of this part shall not be enforceable by any Court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. [illegible]

[illegible]

principles cannot in the very nature of things be enforced in a Court of law. Whether a law should be made embodying the principles of directive principles depends on the legislative will of the legislation. Article 32 is not the machinery through which policy preferences or priorities are determined and this Court is not the forum where the conflicting claims of policies or priorities should be debated. To make the State accept a particular policy, desirable and necessary as the policy might be is not the function of Article 32 of the Constitution. Article 32 of the Constitution is not the nest for all the bees in the bonnet of 'public spirited persons'.— *B. Krishna Bhat v Union of India*, (1990)3 SCC 65. [Articles 32, 37 and 47 of the Constitution]

2. Definitions.—In these rules, unless the context otherwise requires.—

(a) "Act" means, the Karnataka Excise Act, 1965;

(b) "Foreign liquor" means liquor other than Indian liquor;

(c) "Form" means a form appended to these rules;

(d) "Indian liquor" means all liquor defined as Indian liquor in the Act, [1][x x x x x]

(e) "Licence" means a licence issued under these rules;

(f) "Licensee" means, a person to whom a licence is issued;

(g) "Year" means the year commencing on the first day of July.

3. Licences.—Licences for the vend of [2][Indian Liquor (other than arrack)] or Foreign liquor or both shall be of the following descriptions, namely.—

[3][(1) x x x x

(1-A) x x x x x.]

(2) Retail off shop licences for vend of Indian liquor or Foreign or both not to be drunk on the premises.—Under these licences granted in Form C.L. 2, the sale of liquor in sealed bottles to any person in a quantity less than 0.180 litres at a time is prohibited.

[4][(3) x x x x x.]

[5][(4) **Licence to Clubs.**—The Agent, Secretary or Manager or any other person entrusted with the management of the business of the club shall apply and obtain licence in Form CL-4 from the Deputy Commissioner.

Explanation.—For the purpose of this clause, a club means a body of persons registered under the Karnataka Societies Registration Act, 1960:]

[6][Provided that no such licence under this clause shall be granted by the Deputy Commissioner, unless the following conditions are satisfied.—

1. The words "other than arrack" omitted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Clauses (1) and (1-A) omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006
4. Sub-rule (3) omitted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
5. Sub-rule (4) substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.

(1) the club shall have been registered under the Karnataka Societies Registration Act, 1960 for a period of not less than five years and there must be atleast 100 permanent members.

(2) It shall have its own land and building or shall have obtained it on lease for a term of eleven years or more.

(3) It shall have facility for outdoor games like, Tennis, Badminton, Volleyball *etc.*, and indoor games like Carrom, Table Tennis *etc.*, and a reading room or a library.

(4) It shall have adequate facilities for catering food and drinks to the members.

(5) It shall have separate toilet with running water facilities for men and women:

Provided further that existing clubs to whom licences are granted under s clause for the excise year 2001-2002 shall be allowed to renew their ences under the rule existing prior to the commencement of the Karnataka cise (Sale of Indian and Foreign Liquors) (First Amendment) Rules, 2002.]

(5) Occasional licences.—These licences in Form CL-5 are issued for the le of liquor at the refreshment stalls in connection with race meetings, blic entertainments and other such public gatherings to be drunk on the emises.

(6) Special licences.—These licences shall be granted in Form CL-6 by the puty Commissioner of the district with the previous sanction of the Excise mmissioner, when the circumstances are such as not to allow of the issue licences of any of the above descriptions, on such terms and conditions and r such periods, as he may on each occasion determine.

[1][(6-A) Star Hotel Licences.—Licences under this clause shall be granted the Deputy Commissioner in Form 6-A to Star hotels for possession and le of liquor. The licensees under this clause may serve liquor to the sidents in the rooms and open more than one counter for the convenience the residents and boarders within the licensed premises with the approval the Deputy Commissioner.

Explanation.—'Star Hotel' means the hotel recognized as such by the inistry of Tourism, Government of India.]

[2][(7) Hotel and Boarding House licences.—

(a) A licence under this clause shall be applied for and obtained in Form CL-7 from the Deputy Commissioner.

(b) No liquor under this licence shall be sold to persons other than those accommodated in the licenced hotel and boarding houses and their guests and casual visitors who take meals in such places.]

Clause (6-A) inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002

Sub-rule (7) substituted by GSR 16, dated 6-2-1990 ...

[1][Provided that no licence under this clause shall be granted unless the hotel and boarding house is having a minimum of thirty double rooms in corporation areas and twenty double rooms in other areas:

Provided further that the licences granted under this clause for the excise year 2001-2002 shall be allowed to renew the licences under the rule existing prior to the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquors) (First Amendment) Rules, 2002:]

[2][Provided further more that in respect of Hotels and Boarding Houses leased by the Karnataka State Tourism Development Corporation to private persons, firm or companies on renovate, operate, maintain and transfer (ROMT) basis, while granting or renewing the licenses under this clause, the Excise Commissioner may relax the condition regarding the minimum requirement of thirty double rooms in Corporation areas and twenty double rooms in other areas:]

[3][(7-A) Tourist Hotel Licences.—These licences may be granted to Tourist Hotels situated in places other than Cities and managed by the Tourist Development Corporation of the State Government or the Central Government for the possession and sale of Indian liquor (other than arrack) or Foreign liquor or both for supply to residents or for removal to their private rooms in the Tourist Hotel in which tourists stay or to regular boarders for consumption within a specified area in the licenced premises of the tourist hotel or boarding house set apart by the management for the purpose and approved by the Deputy Commissioner of the District in Form No. CL-14 on such terms and conditions as may be specified in the licence and on such other conditions as the Excise Commissioner may from time to time, specify.]

[4][(7-B) Tourist Hotel Beer Bar Licences.—These licences may be granted to Tourist Hotels [5][x x x x x] managed by the Tourism Development Corporation of the State Government or Government or Central Government for the possession and sale of beer for supply to residents or for removal to their private rooms in the Tourist Hotel in which tourists stay or to regular boarders for consumption within a specified area in the licenced premises of the tourist hotel or boarding house set apart by the management for the purpose and approved by the Deputy Commissioner of the District in Form CL-15, on such terms and conditions, as may be specified in the licence and on such other conditions as the Excise Commissioner may, from time to time, specify.]

[6][(7-C) Licence to supply liquor on Board of Train engaged and run by Tourism Development Corporation of State Government or Central Government.—(a) A licence under this rule may be granted to the Tourism Development Corporation of State Government or Central Government in Form CL-7C by the Deputy Commissioner, Bangalore Urban District, with

1. Provisos inserted by Notification No. FD 18 PES 2002, dated 29-6-2002, w.e.f. 1-7-2002
2. Third proviso inserted by Notification No. FD 2 PES 2004, dated 3-2-2004, w.e.f. 3-2-2004
3. Sub-rule (7-A) inserted by GSR 159, dated 19-6-1973, w.e.f. 20-6-1973.
4. Sub-rule (7-B) inserted by GSR 33, dated 6-2-1981, w.e.f. 6-2-1981.
5. The words "situated in places other than cities" omitted by GSR 121, dated 11-5-1981, w.e.f. 13-5-1981.

the prior sanction of the Excise Commissioner for possession and sale of Indian liquor or foreign liquor or both for supply to the *bona fide* travelers traveling in the trains engaged and run by the Tourism Development Corporation of the State Government or Central Government for consumption of liquor within the train during its stay in the limits of the Karnataka State subject to the conditions specified therein the licence.

(b) While applying for licence under this clause, the applicant shall submit application along with the fee specified in Rule 8 and due permission and No Objection Certificate granted by the competent Indian Railway Authorities to serve liquor on board of the train.]

[1][(7-D) Hotel and Boarding House Licenses owned by the person belonging to Scheduled Castes and Scheduled Tribes.—

(a) A licence under this clause shall be applied for and obtained in Form CL-7D from the Deputy Commissioner;

(b) No liquor under this license shall be sold to persons other than those accommodated in the licensed hotel and boarding houses and their guests and casual visitors who take meals in such places:

Provided that no licence under this clause shall be granted unless the hotel and boarding house is having a minimum of fifteen double rooms in Corporation areas and ten double rooms in other areas.]

(8) Military Canteen Licences.—These licences may be granted to military canteens for sale of [2][Indian Liquor (other than arrack)] or Foreign liquor or both to the members of the armed forces for their use only and shall be in Form CL-8.

[3][(8-A) Military Canteen Stores Bonded Warehouse Licence.—A licence under this clause shall be in Form CL-8-A and shall be granted by the Excise Commissioner, to establish a military canteen stores bonded warehouse, to import, export and store Indian made liquor (other than arrack) or foreign liquor without payment of excise duty. The licensee shall supply or sell the above liquor only after payment of excise duty to other military canteen stores within the State having CL-8 licence.]

[4][(8-B) Border Security Force or Para Military Forces Licences.—Licences may be granted in Form CL-8-B to Border Security Forces or Para Military Units for sale of Indian Liquor (other than arrack) or Foreign Liquor or both to the members of Border Security Force or Para Military Units for their personal consumption.]

[5][(9) Refreshment Room (Bar) Licence.—

(a) A licence under this clause, for refreshment room (bar) for sale of Indian liquor combined with the supply of meals or eatables shall

1. Sub-rule (7-D) inserted by Notification No. FD 14 PES 2013, dated 9-6-2014, w.e.f. 9-6-2014
2. Substituted *for* the words "Indian liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
3. Sub-rule (8-A) inserted by GSR 152, dated 24-6-1988, w.e.f. 1-7-1988.
4. Sub-rule (8-B) inserted by Notification No. FD 12 PES 95(iv), dated 29-6-1996, w.e.f. 29-6-1996.

be applied and obtained in Form CL-9 from the Deputy Commissioner:

Provided that no such licence shall be granted by the Deputy Commissioner unless he is satisfied that the refreshment room (bar) provided the following accommodations and facilities.—

[1][(i) a kitchen with sufficient accommodation either with exhaust fan or proper ventilator. The customers shall not pass through kitchen to go the toilet. Passage to the toilet shall be separate from the kitchen;

(ii) a separate room (Dining Hall) for serving the liquor alongwith meals or eatables for consumption. The space in the dining shall be so provided that not more than eight persons shall be accommodated in a built in floor area of 100 Sq. ft. (10x10) with a minimum of four feet space between the tables for the movement of customers and servers. Further, the total area of the Hall/Halls for dining shall not be less than 400 Sq. ft:

Provided that the minimum requirement of 400 Sq. ft. area for dining may be relaxed by the Deputy Commissioner of Excise in case of the licences existing on the dates of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993:

Provided further that in case the licensee desired to shift the licensed premises to any other premises from the premises in which the licence is existing on the date of the commencement of the Karnataka Excise (Sale of Indian and Foreign Liquor) (Amendment) Rules, 1993, the above provisions shall apply without any relaxation.]

(iii) adequate seating arrangements;

(iv) separate toilet with running water facilities for men and women.

(b) No sale of liquor for removal from the premises shall be permitted under the licence. No liquor shall be sold to persons who have not part taken of meals or eatables served in the licenced premises;]

[2][Provided that no licence under this sub-rule shall be granted in any predominantly residential area.]

(10) Auctioner's licences.—(a) These licences shall be in Form CL-10 and shall be applied for and obtained from the Deputy Commissioner of the District.

(b) The licencee may be give sample bottles in respect of all consignments whether trade consignments or the property of private persons, in order that intending purchasers may have the opportunity of testing high class wines or spirits at their own houses before the auction sale.

(c) The licensee is authorised to sell the [1][Indian liquor (other than arrack)] or foreign liquor or both in less quantities than whole dozens of each description in the case of sales by auction of the property of private parties or estates, or of trade consignments which are alleged or otherwise unmerchantable.

(d) The licensee is authorised to sell by auction at places specified in the licence.

[2][(11) **Distributor licence.**—(a) A licence under this clause shall be granted by the Excise Commissioner for the whole of the State or any part thereof to deal in the products of all distilleries or breweries or wineries in the State or to import liquor from outside the State for the purpose of distribution or sale within the State or part thereof or to export liquor outside the State. The licensee shall establish such number of depots in different parts of the State, as the Excise Commissioner may specify in this behalf.

(b) The licence under this clause shall be issued only to such company owned or controlled by the State Government as it may specify.

(c) The licence shall be in Form CL-11 and shall be subject to renewal each year at the discretion of the Excise Commissioner.

(d) The Excise Commissioner may also permit the licensee to sell foreign liquor imported from outside India.]

[3][(11-A) **Distributor licence to sell foreign liquor.**—(1) A licence shall be granted by the Excise Commissioner for the whole of the State or any part thereof to directly import foreign liquor from outside India or to import foreign liquor from other authorised agencies outside the State of Karnataka but within India for the purpose of distribution of sale within the State of Karnataka, as the case may be.

(2) The licence under this clause shall be issued only to such company owned or controlled by the State Government and which possesses an authorisation or import licence granted by the Government of India to import foreign liquor as specified by the Government.

(3) The licence shall be in Form CL-11A and shall be subject to renewal each year at the discretion of the Excise Commissioner.]

[4][(11-B) **Licence to sell confiscated liquor.**—(1) A licence under this clause in Form CL-11B shall be granted by the Deputy Commissioner, only to such companies owned or controlled by the State Government and specified by the Government for possession and to sell in retail to any person of the liquor seized or confiscated under the Karnataka Excise Act, 1965 and Rules framed thereunder and found fit for human consumption.]

1. Substituted for the words "Indian Liquor" by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972.
2. Sub-rule (11) substituted by Notification No. FD 16 PES 2003(I), dated 30-6-2003, w.e.f. 30-6-2003.
3. Clause (11-A) inserted by Notification No. FD 15 PES 2001, dated 4-7-2001, w.e.f. 1-7-2001
4. Clause (11-B) inserted by Notification No. ...

[1][(11-C) **Retail shop licence issued to Government Compani**
Notwithstanding anything contained in Rule 12, a licence under this
in Form CL(11-C) shall be granted by the Deputy Commissioner, only
companies owned or controlled by the State Government and speci
the Government, for possession and sale of liquor in retail shops
condition that such shops shall be exclusively maintained by them an
not be transferred and sub-leased to others. Consumption of liquor
the licensed premised shall not be allowed under this category of lice

[2][(12) **Licence for retail sale of bottled toddy.**—Licence for the ret
of bottled toddy may be granted with the previous sanction of the
Commissioner in Form CL-12 by the Deputy Commissioner of the D
on payment of the licence fee specified in Rule 8 and on such term
conditions as may be specified in the licence and on such other conditi
the Excise Commissioner may, from time to time, specify.

[3][(13) **Arrack depot licence.**—The Deputy Commissioner may, wi
previous sanction of the Excise Commissioner, grant arrack depot lice
Form CL-13, to a person who has obtained a lease of the right of retail v
arrack for storage of bottled arrack of the approved sizes affixed with
lables obtained from the licensed warehouse or Depot, on payment
specified in Rule 8, subject to the terms and conditions specified in the li
and on such other conditions as the Excise Commissioner, may specify
time to time.]]

[4][(14) **Licence for running duty-free shop at Internat**
Airport.—Licence for retail sale of foreign liquor to *bona fide* Internation
Passengers transiting the [5][x x x] International Airport who are requi
wait at the airport transit lounge reserved for such passenger b
resuming their journey shall be granted with the prior sanction of the E
Commissioner in Form CL-16 by the Deputy Commissioner of the Distr
payment of fee as specified in Rule 8 and as such terms and conditions a
Excise Commissioner may specify from time to time.]

[6][(15) **Refreshment Room (Bar) Licence at Internat**
Airport.—Licence under this clause, for refreshment room (bar) for sa
Foreign Liquor or Indian Liquor or both, combined with supply of mea
eatables in.—

(a) an area common for the domestic and international air passen
and *bona fide* users shall be granted in Form CL-17; and

(b) an area exclusively meant for international air passengers sha
granted in Form CL-18;

1. Clause (11-C) inserted by Notification No. FD 14 PES 2003(I), dated 30-6-2003, 1-7-2003
2. Sub-rules (12) and (13) inserted by GSR 273, dated 3-8-1972, w.e.f. 4-8-1972
3. Sub-rule (13) inserted by Notification No. FD 23 PES 99(2), dated 18-11-2000, 18-11-2000.
4. Sub-rule (14) inserted by Notification No. FD 2 PES 2001, dated 22-2-2001, w.e.f. 22-2-2
5. The word "Bangalore" omitted by Notification No. FD 3 PES 2008, dated 22-11-2008, 22-11-2008.

of an international airport, by the Deputy Commissioner of the District concerned on payment of a fee as specified in Rule 8 and on such terms and conditions as the Excise Commissioner may specify from time to time.]

CASE LAW

R. 3 — Standing Circular No. 141, Para 3(c) — C.L. 2 Licence holder to purchase only from C.L. 1 Licence holder of his district not permissible to puchase from C.L. 1 Licence Holder outside the district — Explained. — *Bhagyalakshmi Wines Stores and Another v State of Karnataka and Others*, 1989(3) Kar. L.J. 326.

R. 3(2) — As amended by Karnataka Excise (Sale of Indian and Foreign Liquors) (Amendment) Rules, 1997 — Distributor licence — Amendment liberalising grant of — Provision restricting distributorship to company owned or controlled by State Government, validity of which has been upheld by Apex Court, sought to be diluted and water down by making amendment, permitting appointment of more than one distributer for distillery, brewery or winery either for whole or part of State — Amendment made to nullify effect of judgment of Apex Court is liable to be quashed.

R.P. Sethi, CJ. and A.M. Farooq, J., Held: In the instant case while upholding the validity of 1989 rules, the Supreme Court rejected all the pleas of the manufacturers and distilleries of the IMFL which have been now made a basis for repealing of the 1989 rules. Upholding the validity of the impugned rules would amount to setting aside of the Apex Court judgment in *Khoday Distilleries* case. What the distilleries and manufacturers of liquor could not achieve in a Court of law, they have clandestinely succeeded to obtain by virtue of the impugned rules. The impugned rules if permitted to remain on the statute book would not only be contrary to the directions of the Supreme Court but would be a negation of the rule of law. The impugned rules have not been referred to any reasonable basis or justification. The impugned rules are not only unconstitutional, illegal, *mala fide*, initiated at the instance of the manufacturers and distilleries of IMFL is conspiracy with some bureaucrats but also against the general public interest resulting in huge losses not only to the State Exchequer but to MSIL, admittedly a public undertaking and a Government Company. — *K.V. Amarnath and Another v State of Karnataka and Others*, 1998(5) Kar. L.J. 62D (DB).

Rule 3(2) — Constitution of India, Articles 226 and 227 — Allegation of selling spurious and adulterated liquors made against licensee — Suspension of licence in Form CL-2 pending enquiry into — Writ petition challenging order of suspension of licence on ground that opinion formed by Deputy Commissioner that licensee was in possession of spurious and adulterated liquor was without basis as the report of chemical analyst does not disclose anything harmful to consumers in liquor alleged to be spurious and adulterated, seized from licensee — However, in view of fact that opinion formed by authority for suspending licence is based on *prima facie* material and it for that authority to take note of Chemical Analyst's report at time of enquiry, matter is not one to be interfered with in exercise of judicial review — Direction, however, lies to authority to complete enquiry within two months.

B.S. Patil, J., Held: This is not a case of cancellation of licence, but of suspension of the licence pending enquiry. The opinion formed by the Deputy Commissioner, as is evident from the impugned order, is based on *prima facie* material placed before him. What is the effect of the report of the Chemical Analyst, is a matter to be taken note of at the time of enquiry. Therefore, the writ petition is dismissed. . . . . . However, in view of the petitioner apprehending that the disposal of the case may get delayed before

Commissioner to conduct necessary enquiry and complete the same wit[hin] period of two months from the date of receipt of a copy of this order. — *Lalithamma v State of Karnataka and Others*, 2010(1) Kar. L.J. 669.

Rule 3(2) — Constitution of India, Articles 226 and 227 — Retail [...] licence — Breach of terms and conditions of — Cancellation of licence f[...] Concurrent finding of fact by three authorities, *viz.*, Deputy Commissi[oner] (Excise), Commissioner of Excise and Tribunal, that illicit liquors [...] manufactured and smuggled liquors were sold by servants of licens[ee] licensed premises — Whether to compound offence or to cancel licen[ce] matter of discretion of authority — Where authority has chosen to ca[ncel] licence on basis of such finding, decision of authority cannot be interf[ered] with in exercise of writ jurisdiction.

It reveals from the specific finding given by the Commissioner of E[xcise] that it is a fact that the duplicate liquor and the non-duty paid liquor [...] found in the storeroom belonging to the CL-2 licensed premises. There[fore] to make a distinction that the same was few metres away from the lice[nsed] premises does not hold much water. Whether to compound the offen[ce or] cancel the licence is the subjective satisfaction of the Deputy Commissi[oner] who is the licensing authority has passed a well-considered order dismi[ssing] the appeal filed by the petitioner. The Karnataka Appellate Tribunal [has] dismissed the appeal holding that as per Section 29, it is very much evi[dent] that if any of the servants who is acting on behalf of the licensee either [with] his express or implied permission, then also the licence is liable t[o be] cancelled or suspended. Therefore, it cannot be held that the servant [is] responsible for the crime and not the licensee. Section 29(b) of the Karn[ataka] Excise Act gives sufficient powers to the licensing authority to cance[l] licence for breach of licence condition. Once the Competent Authorities [have] recorded a concurrent finding of fact, this Court cannot exercis[e] extraordinary jurisdiction under Article 226 of the Constitution of Indi[a. At] one stage, the petitioner herself has admitted in unequivocal terms in wr[iting] that her servant has committed a mistake and she is ready to pay the pe[nalty] and the value of the commodity seized. Thereafter, she changed her ve[rsion] in the objections filed to the show-cause notice. . . . Having regard to the [facts] and circumstances of the case there is no error of law or material irregu[larity] in the impugned orders. — *Smt. Jayamma v The Commissioner of Exc[ise,] Karnataka, Bangalore and Others*, 2003(5) Kar. L.J. 272.

Rule 3(9) — Bar licence — Cancellation for unauthorised transfer [—] Transfer involves parting with ownership of business of running ba[r for] which licence was granted, and transfer becomes unauthorised attra[cting] penalty of cancellation of licence, only if transfer has been effected wi[thout] previous permission of designated authority and without payme[nt of] requisite transfer fee — Act does not contemplate that licensee must hi[mself] run bar by being present on premises all time — He is not prohibited [from] managing business through servant or agent — Power of attorney simp[ly] granted to agent to manage business does not amount to transfer of bu[siness] to agent — Unless there is finding that licensee has divested hims[elf of] ownership of business, licence cannot be cancelled — Cancellation of li[cence] in absence of such finding, held, amounts to wrongfully preventing lic[ensee] from carrying on her business.

Rule 17 of the Karnataka Excise Licences (General Conditions) Rules [...] provides that the right of retail vend of liquor shall not be transferred [by] licensee except with the previous permission of the Deputy Commiss[ioner.] Rule 17-A provides that in the event of death of the licensee durin[g] currency of the licence, the Deputy Commissioner may, on an applicat[ion by] the legal heirs of the deceased with the previous sanction of the [Excise] Commissioner, transfer the licence in their favour. Rule 17-B provid[...]

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[1]THE KARNATAKA EXCISE LICENCES (GENERAL CONDITIO RULES, 1967

(As amended by GSR 171, dated 6-5-1969; GSR 384, dated 4-11-1
432, dated 12-12-1969; GSR 107, dated 18-3-1970; GSR 359, dated 3
GSR 50, dated 12-2-1976; GSR 223, dated 27-7-1976; GSR 141, dated
GSR 218, dated 17-7-1978; GSR 250, dated 24-8-1979; GSR 14
24-6-1980; GSR 282, dated 23-9-1980; GSR 148, dated 25-6-1983;
dated 30-3-1985; GSR 16, dated 6-2-1990; GSR 26, dated 5-2-1992;
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28-11-1994; GSR 64, dated 23-5-1995; GSR 58, dated 17-4-1996 Noti
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2001, dated 8-1-2002; FD 27 PES 2001, dated 19-2-2002; FD 8 PES 2002
6-3-2002; FD 6 PES 2003, dated 30-6-2003; FD 10 PES 96(II), dated 6-
FD 25 PES 2003, dated 20-6-2006; FD 03 PES 2007(2), dated 25-5-2007
PES 2008(II); dated 15-1-2009; FD 11 PES 2009, dated 9-2-2010; FD (
2013(1), dated 28-2-2013 and FD 08 PES 2014(V), dated 28-2-2014.)

GSR 469.—In exercise of the powers conferred by Section 71
Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Governm
Karnataka hereby makes the following rules, the draft of the same h
been previously published, as required by sub-section (1) of Section 71
said Act, in Notification GSR No. 434 in Part IV, Section 2C(i) o
Karnataka Gazette, Extraordinary, dated 30th September, 1967, namely

1. Title, extent and commencement.—These Rules may be called
Karnataka Excise Licences (General Conditions) Rules, 1967.

(2) They shall extend to all the areas of State of Karnataka, where
Karnataka Excise Act, 1965, is in force.

(3) They shall come into force at once.

2. Application.—These rules shall apply to all licences issued under
Karnataka Excise Act, 1965 for sale of liquors and every such licence shal
deemed to include the conditions prescribed by these rules as gen
conditions.

[2][3. **Definitions.**—In these rules unless the context otherwise require

1. Published in the Karnataka Gazette ...

ಅನುಬಂಧ - ೨

[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF RETAIL VEND OF BEER) RULES, 1976

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[1](As amended by GSR 150, dated 14-6-1978; GSR 298 [illegible]
GSR [illegible]

5(iv), dated 31-5-1995; FD 7 PES 98(v), dated 18-6-1998; FD 3 PES 9(i), dated 9-6-1999; FD 10 PES 2002(IV), dated 29-6-2002; FD 32 PES 2002, ated 16-1-2003; FD 36 PES 2003(3), dated 23-2-2004; Notification No. FD 9 'ES 2009, dated 25-3-2010; FD 09 PES 2014, dated 15-12-2014 and FD 02 (3) 'ES 2019, dated 17-12-2019.)

GSR 226.—Whereas a draft of the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976 was published as required by sub-section (1) of Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1965) in Notification No. GSR 179 (HD 16 PES 76(II), dated 30th June, 1976 in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, dated 30th June 1976 inviting objections and suggestions from all persons likely to be affected thereby before 15th July, 1976;

And, whereas, the Gazette was made available to the public on 30th June, 1976;

And, whereas, no objections or suggestions have been received on the said draft by the State Government;

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka, hereby makes the following rules, namely.—

1. Title, extent and commencement.—(1) These Rules may be called the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules, 1976.

(2) They shall extend to the whole of the State of Karnataka.

(3) They shall come into force from 1st July, 1976.

2. Definitions.—In these rules, unless the context otherwise requires,

(a) "Act" means the Karnataka Excise Act, 1965;

(b) "Beer" means any liquor prepared from malt or grain with or without the addition of sugar and hops and includes ale, black beer, porter, stout and spruce beer;

(c) "Form" means a form appended to these rules;

(d) "Licence" means a licence issued under these rules;

(e) "Year" means year commencing on the first day of July and ending June 30th;

(f) "Shop" means the shop licensed for retail vend of Beer under these rules;

(g) "Lease" means a lease granted under these rules for retail vend of Beer in a shop.

3. Lease of Retail Vend of Beer.—A person desiring to obtain a lease for retail vend of Beer under these rules, may make an application to the Deputy Commissioner in Form I. The application shall be accompanied by a Treasury Challan for having credited the lease amount prescribed in Rule 5.

4. Grant of Lease of Retail vend of Beer.—On receipt of the application under Rule 3, the Deputy Commissioner may after making such enquiry for purpose of verification of the particulars furnished by the applicant [1][and having regard to the provisions of Rule 4-A, if he is satisfied] that there is no objection to lease the right of retail vend of Beer, he may with the previous sanction of the Excise Commissioner, grant the lease.

[2][**4-A. Matters to be taken into account while granting lease.**—The Deputy Commissioner, shall, while granting lease under these rules, have regard to,—

(i) the availability of rooms for serving Beer along with eatables for consumption;

(ii) adequate seating arrangements;

(iii) the provision for separate toilet with running water facilities.]

[3][**5. Lease amount.**—(1) The lease amount for the Right of Retail Vend of Bulk Beer shall be rupees thirty thousand per annum and lease amount for vending Bulk Beer by holder of [4][[5][a licence in Form CL-4 or Form CL-6A or Form CL-7 [6][x x x x x] or Form CL-9] issued under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968] shall be rupees fifteen thousand per annum, and

(2) The lease amount for the Right of Retail Vend of Bottled Beer shall be rupees four thousand five hundred per annum.]

[7][**5-A. Additional lease amount.**—In respect of a lease granted under these rules, an additional lease amount equivalent to fifteen per cent as specified in Rule 5, shall be levied for the purpose of various infrastructure projects across the State, equity investment in Bangalore Mass Rapid Transit Limited and for establishing a Mukhya Manthri Grameena Rasthe Abhivruddhi Nidhi in the proportion of 57:28:15 respectively.]

[8][**6. Duration of Lease.**—The lease shall be for a period of three years subject to annual renewal and also subject to good behaviour and payment of lease amount as specified in Rule 5.]

7. Licence.—On granting lease under Rule 4, of the Deputy Commissioner shall issue a licence to the licensee in Form No. II. The said licence shall be subject to the conditions specified thereon.

1. Substituted for the words "and if he is satisfied" by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.
2. Rule 4-A inserted by GSR 63, dated 8-4-1991, w.e.f. 8-4-1991.
3. Rule 5 substituted by Notification No. FD 3 PES 99(I), dated 9-6-1999, w.e.f. 1-7-1999.
4. Substituted for the words "Bar Licence" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003
5. Substituted for the words, letters and figures "a licence in Form CL-6A or Form CL-7 or Form CL-9" by Notification No. FD 9 PES 2009, dated 25-3-2010, w.e.f. 25-3-2010
6. The words, letters and figure "or Form CL-7D" omitted by Notification No. FD 02 (3) PES 2019, dated 17-12-2019, w.e.f. 18-12-2019
7. Rule 5-A substituted by Notification No. FD 36 PES 2003(3), dated 23-2-2004 and shall be deemed to have come into force w.e.f. 1-2-2004
8. Rule 6 substituted by GSR 298, dated 11-10-1980, w.e.f. 11-10-1980.

CASE LAW

Rule 7 — Granting of licence in Form II for retail vend of beer — On facts and circumstances — Appellant permitted to file fresh application for issue of licence in Form II — Respondent-authorities to receive and consider the same in accordance with law without being prejudiced by observation made in writ petition order.

N.K. Patil and Mrs. S. Sujatha, JJ., Held: In the light of the submission made by learned Counsel appearing for both the parties and having regard to the peculiar facts and circumstances of the case, without expressing any opinion on merits of demerits of this case, it would suffice for this Court to dispose of the appeal with appropriate direction to the parties to meet the ends of justice and to safeguard the interest of appellant as well as respondents. . . . . . . The appellant herein is permitted to file fresh application for issue of licence in Form 2 for retail vend of beer as contemplated under the Karnataka Excise (Lease of Retail Vend of Beer) for the excise year 2016-2017 which commences from 1st July, 2016, before the expiry of this excise year. If such an application is filed by the appellant, the respondents-authorities are directed to receive and consider the same in accordance with law, and dispose of the same after affording reasonable opportunity of hearing to the appellant as expeditiously as possible and without being prejudiced by the observation made in the order impugned dated 13-9-2012 passed by the learned Single Judge in W.P. No. 15851 of 2012. —*Ramesh Bhimagouda Patil v State of Karnataka and Others*, 2016(2) Kar. L.J. 462 (DB).

[1][7-A. **Number of licences to be fixed.**—(1) The maximum number of licences to be granted in an area shall be determined from time to time by the Excise Commissioner with the previous approval of the State Government.

(2) The number of retail vend of Beer licences to be granted in a taluk shall be determined with reference to the population of such taluk and probable demand.

(3) The number of retail vend of Beer licences to be granted in a taluk shall be as follows.—

(a) One retail vend of Beer licence for every 20,000 population in urban area or a fraction thereof exceeding 10,000 and one retail vend of beer licence for every 30,000 rural population or a fraction thereof exceeding 15,000.

Notwithstanding anything in sub-rule (3) the Excise Commissioner ...h the previous approval of the State Government grant for any area ...r of licences not exceeding one half of the total number of licences ...ch area under sub-rule (3) on the basis of increase in con...nd demand for such licences.

...he purpose of this rule,—

1.

(i) "Population" means the population as ascertained at the la preceding Census and includes the projected annual growi subsequent to the last preceding Census;

(ii) "Urban area" means the areas included within the limits of a cit declared under the Karnataka Municipal Corporations Act, 197 or a City Municipality or a Town Municipality declared unde the Karnataka Municipalities Act, 1963.]

8. **Duration of Licence.**—A licence shall be valid for the year or where a licence is obtained on any date after the first July until the 30th June thereafter.

9. **Renewal of Lease.**—A lessee in whose favour the lease has been granted desiring to renew the lease on expiry of the lease, may make an application in Form No. I to the Deputy Commissioner at least one month before the expiry of the lease already granted. The application shall be accompanied by a Treasury challan for having credited the lease amount prescribed in Rule 5.

10. **Grant of Renewal of Lease.**—On receipt of application under rule 9, the Deputy Commissioner may grant the renewal of lease.

11. **Renewal of Licence.**—On grant of lease under Rule 10 to the lessee, the Deputy Commissioner shall renew the licence for the period mentioned in the lease. The renewal shall also be in Form No. II.

12. **Cash Security.**—The lessee before grant of a licence shall furnish a cash security of Rs. 1,000 or Government Securities or the Securities recognised by the Government for fulfilment of licenced conditions.

FORM I

[See Rule 3]

Application for Grant of Lease

1. Name and address of the Applicant	
2. If the applicant is a company or firm the names and addresses of the Directors or Partners of Company or Firm	
3. The location of the premises where applicant ...	

4. Whether [1][lease amount] prescribed under these rules is paid; if so the application shall be accompanied by a Treasury Challan for having credited the lease amount prescribed in Rule 5

---

ace:
ate:

Applicant

FORM II
(See Rule 7)
PART-A
Licence for the retail sale of Beer

	Registration No.	
.	Name of the Licensee	
	Name of the Agent or Vendor	
	Locality: (a) Town (b) Street (c) Door No.	

I, ... the Deputy Commissioner .... District onsideration of the payment of the prescribed lease amount of [2][Rs. .... (Fill in here lease amount prescribed under Rule 5 of he rules)] do hereby authorise Sri. .... /o Sri. .... residing at .... to sel eer at premises No. .... situated in .... subject to the onditions prescribed in Part 'B' appended below:

Schedule showing the boundaries of the Beer Shop

Street, Door No. and other particulars	Bounded on the				Remarks
	North by	East by	South by	West by	

1. Substituted for the words and figures "a lease amount of Rs. 500/-" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003.
2. Substituted for the words, figures and brackets "Rs. 4,500/- (Rupees Four thousand Five hundred only)" by Notification No. FD 32 PES 2002, dated 16-1-2003, w.e.f. 16-1-2003.

Seal ....

Place Deputy Commissioner

Date ....District.

PART-B
CONDITIONS

(1) The Licensee shall be bound by the provisions of the Karnataka Excise Act, 1965 and any general or special rules prescribed or which may from time to time be prescribed thereunder.

(2) The privilege under this licence is restricted to [1][sale of bulk or bottled Beer only.]

(3) The holder of this licence shall upon requisition by any officer not below the rank of Sub-Inspector of Excise be bound to produce before such Officer the original Invoice showing the purchase of Beer for the sale of which this licence is granted for inspection and to give samples of Beer in the shop to be tested.

(4) The Licensee is bound to maintain separate correct accounts of daily transactions of each brand of Beer and submit the returns monthly to the jurisdictional Inspector of Excise within the first week of the next following month.

(5) The Licensee shall use metric measures only approved by the Weights and Measure Department.

[2][(5-A) The licensee shall ensure that the bulk Beer supplied to the licenced premises shall be in hygienic condition and sold fresh.]

(6) The Licence shall not be transferable without the previous sanction of the Excise Commissioner.

(7) The agent or the Vendor, as the case may be, shall equally with the Licence holder be responsible for breach of any of the conditions of the Licence.

(8) The shop shall have only one door both for entry and exit.

(9) The Licensee shall fix in a conspicuous place outside his shop a Board on which shall legibly be painted his name, number of his shop and the article he is licensed to deal in.

(10) If a Vendor opens a cask of a particular brand of Beer and puts on tap, he should not open another cask of the same brand until the previous cask is emptied.

(11) The Licence may be suspended or cancelled in accordance with the provisions of Section 29 of the Act and the Licensee or his employee shall be

1. Substituted for the words "sale of Beer only", by GSR 298, dated 11-10-1980, w.e.f. 11-10-1980.
2. Condition (5-A), inserted by GSR 63, dated 9-4-1991, w.e.f. 9-4-1991

liable for prosecution of breach of any conditions of licence under the provisions of the Act or the rules and orders passed thereunder.

(12) The licence shall continue to be in force till 30th of June....................

(13) Beer shall be sold only for consumption in the premises.

(14) The opening and closing hours of the shop for sale of Beer shall be from 9-30 A.M. to 9.30 P.M.

....

Deputy Commissioner, District

FORM III

(See Rule 11)

Application for Renewal of Licence

1.	Name and address of the applicant	
2.	If the applicant is a Company or Firm the names and addresses of the Directors or Partners of Company or Firm	
3.	The location of the premises where the applicant is conducting the business under a lease	
4.	Whether the applicant/firm is licenced to vend Beer under the Karnataka Excise (Lease of right of retail vend of Beer) Rules, 1976	
5.	Particulars of licence held by him/them for retail vend of Beer	

Place:

Date:

Applicant

FORM IV

Form B.P.No. 1

For sale of Beer in

Brand.................

Account book of .... Licence holder/retail in toddy shops.

Month	Date	Opening Balance		Receipt		Quantity	
		Bulk	Bottles	From Whom	Permit No. and Date	Bulk	Bottles
1	2	3	4	5	6	7	8

Total		Issues		Closing Balance		Remarks
Bulk	Bottles	Bulk	Bottles	Bulk	Bottles	
9	10	11	12	13	14	15

Signature of the Licence Holder.

[1][24. Quarters.—x x x x x.].

25. Breach of Rules.—In case of any breach of these rules or conditions of licence either by the licensee or by his employees, the Commissioner may suspend or cancel the licence or both and the licensee shall not be entitled to any compensation. The suspension or cancellation shall not prevent the prosecution of any person for any offence which he may commit against the provisions of the Karnataka Excise Act, 1965 or other law for the time being in force. If, on prosecution, the licensee or his employee is convicted by the Court. It shall be lawful for the Commissioner to declare his licence forfeited.

26. The licensee to be bound by all additional Rules.—The brewer (licensee) shall be bound by all the additional rules for the control of breweries which may hereafter be prescribed under the existing law or under any law which may hereafter be enacted and by all special orders issued by the Commissioner with regard to individual brewery and shall cause all persons employed by him in his breweries to obey all such rules.

27. Appeal.—(1) Except as otherwise provided, an appeal shall lie,—

(a) to the Deputy Commissioner from any order or proceedings taken under these rules by the Inspecting Officer or any other Officer authorised by him;

(b) to the Commissioner from any order passed or proceedings taken or any appellate order passed by the Deputy Commissioner.

(2) The appeal under clause (a) of sub-rule (1) shall be preferred within sixty days and the appeal under clause (b) of sub-rule (1) shall be preferred within ninety days of the communication of the order appealed against.

[2][**27-A. Grant of licence for Microbrewery.**—Any person who desirous of obtaining a licence for a Microbrewery shall apply to the Excise Commissioner in Form 4 through the Deputy Commissioner. The Application shall be accompanied by a treasury challan for having credited the fee specified in sub-rule (2) and full description of the premises, utensils and installed capacity of the Plant per day. The detailed in the application shall be checked either by the Deputy Commissioner or some other Officer duly authorised by him in this behalf, who shall certify to the fact, if he finds it correct, and forward it to the Commissioner. The Commissioner may grant Micro-brewery licence subject to conditions and restrictions specified in the Karnataka Excise Licences (General Conditions) Rules, 1967.]

28. Repeal and Savings.—All rules corresponding to the foregoing rules framed under any enactment repealed by Section 72 of the Act are hereby repealed:

Provided that the repeal shall not effect,—

(a) the previous operation of the rules so repealed or anything duly done or suffered thereunder, or

1. Rule 24 omitted by Notification No. FD 62 EAA 2011(1), dated 30-4-2012, w.e.f. 30-4-2012.
2. Rule 27-A substituted by Notification No. FD 03 PES 2012(I), dated [illegible]

(b) any right, privilege, obligation or liability accrued or incurr under any rule so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of a offence committed against any rule so repealed, or

(d) any investigation or legal proceeding or remedy in respect any such right, privilege, obligation, liability, penalty, forfeiture punishment as aforesaid, and any such investigation, legal proceedi or remedy may be instituted, continued or enforced and any su penalty, forfeiture or punishment may be imposed as if such rules ha not been repealed:

Provided further that subject to the preceding proviso anything done or a action taken (including any appointment or delegation made, notificatio order, instructions or direction issued, form, certificate obtained, permit licence granted or registration effected under any such rules), shall be deeme to have been done or taken under the corresponding provisions of these rul and shall continue to be in force accordingly, unless and until superseded b anything done or any action taken under the Act or these rules, as the case ma be.

FORM 1

[See Rule 3]

APPLICATION FOR THE BREWERY LICENCE

To

Court fee stamp of Rs. [illegible]

The Excise Commissioner in Karnataka, Bangalore.

1. Name or names of the applicant with full postal address.

2. The amount of capital proposed to be invested.

3. The name of the place and the site in which the building for housing the brewery is situated (description and plans of the building to be furnished).

4. Description of the vessels and other permanent apparatus.

5. Approximate production capacity of the Brewery.

6. Date from which the applicant desires to start the Brewery.

[1][7. x x x x x]

[2][8. x x x x x]

9. Whether the applicant has enclosed the treasury challan for having credited the prescribed licence fees in favour of the Government.

DECLARATION

1. I/We hereby declare that the particulars mentioned in the application are correct.

1. Entries relating to Sl. No. 7 omitted by Notification [illegible]

Rules

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Annexure - 4

[1]THE KARNATAKA EXCISE (LEASE OF THE RIGHT OF [2][RETAIL VEND OF WINE OR FORTIFIED WINE]) RULES, 2008

(As amended by Notification Nos. FD 20 PES 2005, dated 22-6-2009 and FD 03 PES 2012(IV), dated 31-3-2012)

Whereas, the draft of the Karnataka Excise (Lease of Right of Retail Vend of Wine) Rules, 2008 was published as required by sub-section (1) of the Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), in Notification No. FD 20 PES 2005(I), Bangalore, dated 1st July, 2008, in Part IV, Section 2-C(1) of the Karnataka Gazette, Extraordinary No. 673, dated 1st July, 2008, inviting objections and suggestions from all persons likely to be affected thereby within thirty days from the date of publication of the draft in the Official Gazette.

And whereas, the said Gazette was made available to the public on 1st July, 2008.

And whereas, the objections and suggestions received within the period specified above, have been considered by the Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1965), the Government of Karnataka hereby makes the following rules, namely.—

1. Title and commencement.—(1) These rules may be called the Karnataka Excise (Lease of the Right of [3][Retail Vend of Wine or Fortified Wine]) Rules, 2008.

(2) These rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires.—

(1) "Act" means the Karnataka Excise Act, 1965;

(2) "Form" means a form appended to these rules;

(3) "Fortification" means the process of manufacturing fortified wine;

1. Published in the Karnataka Gazette, Extraordinary No. 1078, dated 27-9-2008, vide Notification No. FD 20 PES 2005(III), dated 27-9-2008.

2. Substituted for the words ...

[1][(4) "Fortified wine" means Wine or Fruit Wine, the alcoholic strength of which has been increased by the addition of Neutral Spirit or Rectified Spirit or pure fruit Brandy and which has alcoholic strength of not more than 16% volume by volume and fruit wine content of not less than 7% volume by volume;]

(5) "Lease" means the lease of the right of the retail vend of wine granted under these rules;

(6) "Licence" means a licence issued under these rules;

(7) "Wine" means the fermented juice of ripe grapes or other fruits with or without the addition of sugar or jaggery, containing self-generated alcohol, including sparkling wine but does not include fortified wine;

(8) "Year" means the year commencing on the first day of July and ending with the 30th day of June of the next calendar year;

(9) "Wine tavern" means a place for [2][retail vend of wine or fortified wine] for consumption with or without eatable.

[3][(10) "Wine boutique" means a place for [4][retail vend of wine or fortified wine] in sealed bottles only;]

3. Application for grant of lease.—[5][(1) [6][An application for lease of right for retail vend of wine or fortified wine] in a wine tavern or/in a wine Boutique or for both shall be made to the Deputy Commissioner of the district in Form LFW-I accompanied by a treasury challan for having credited the lease amount to the Government.

(2) The Deputy Commissioner shall while granting licence under these rules have due regard to.—

(a) in case of a Wine Tavern.—

(i) the availability of rooms for serving wine along with eatables for consumptions;

(ii) adequate seating arrangements;

(iii) the provision for separate toilet with running water facilities for men and women;

1. Clause substituted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Substituted for the words "retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. Clause (10) inserted by Notification No. FD 20 PES 2008, dated 22-6-2009, w.e.f. 23-6-2009.
4. Substituted for the words "retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
5. Sub-rules (1) and (2) substituted by Notification No. FD 20 PES 2008, dated 22-6-2009, w.e.f. 23-6-2009.
6. Substituted for the words "An application for lease of right of retail vend of wine" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

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(b) in case of Wine Boutique.—

(i) that a minimum built up floor area of 200 sq. ft. of RCC; or

(ii) if the licence is located in any super markets, malls, multiplex *etc.*, the total floor area of such super market *etc.*, shall not be less than 15,000 sq. ft.]

(3) Where the applicant for a licence is a firm, the name and other particulars of all the partners shall be mentioned in the application and if a licence is granted to the applicant, the names of all the partners shall be entered in the licence. No additional partners shall be admitted to the firm after the granting of a licence unless the Deputy Commissioner on an application made to him in writing agrees to alter the licence, and to add the name or names of the partners in the licence.

4. Grant of lease.—On receipt of the application under Rule 3, the Deputy Commissioner after such enquiry as he deems fit, and if he is satisfied may grant the lease for the retail sale of wine in Form LFW-II.

[1][**5. Lease Amount.**—The amount for grant of lease shall be rupees one thousand for wine tavern and rupees five thousand for a wine boutique per annum].

6. Security.—The lessee shall before grant of licence furnish a sum of rupees one thousand by way of security either in cash or securities approved by the Government for the fulfillment of the conditions of the licence.

7. Licence.—(1) The Deputy Commissioner after the grant of lease under Rule 4 and on furnishing of security by applicant under Rule 6 shall issue a licence to the lessee in Form LFW-III.

(2) The licence granted under sub-rule (1), shall be subject to the conditions specified therein and valid for a year or where the licence obtained on any date after the first day of July until the 30th day of June of the next calendar year.

8. Renewal of lease.—(1) The lessee shall apply for renewal of lease in Form LFW-I to the Deputy Commissioner thirty days before the expiry of lease granted under Rule 4, accompanied by a treasury challan for having credited the prescribed lease amount.

(2) On receipt of the application under sub-rule (1), the Deputy Commissioner may renew the lease for a period of one year.

9. Renewal of licence.—On the renewal of lease under Rule 8, the Deputy Commissioner shall renew the lease in Form LFW-II and issue a licence to the lessee in Form LFW-III.

10. Occasional licence.—The Deputy Commissioner may issue an occasional licence in Form LFW-IV for [2][sale and consumption of Wine or Fortified Wine at Wine festivals/fares] conducted by the Karnataka Wine

1. Rule 5 substituted by Notification No. FD 20 PES 2008, dated 22-6-2009, w.e.f. 23-6-2009.
2. Substituted for the words "sale and consumption of Wine at Wine festivals/fares" by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

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Board or for consumption on such other occasion or gathering as the Deputy Commissioner may deem fit at a fee of Rs. 1000/-per day.

[1][**10-A. Sale of Wine or Fortified Wine.**—The distributor Licensee under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 may sell Wine or Fortified Wine to a person holding a licence under these rules.]

11. Repeal and savings.—Karnataka Excise (Lease of the Right of Retail Vend of Wine) Rules, 1985 are hereby repealed:

Provided that the said repeal shall not affect the previous operation of the said rules or anything duly done or suffered thereunder or affect any right, liability or obligation acquired or accrued under the said rules.

FORM LFW-I

[See Rule 3]

[2][**Application for grant of lease to retail sale of wine [3][or fortified wine]]**

1. Name and address of the applicant
2. If the applicant is a company/firm the name and addresses of the Directors of Company/partners of the firm
3. The location of the premises where the applicant desires to sell the wine [4][or fortified wine] with boundaries:
   [5][(a) in the wine tavern; or
   (b) in the wine boutique or both.]
4. Whether the prescribed fee amount has been paid? If so, the treasury, challan number and date for having credited the lease amount
5. Whether the following documents are enclosed?
   (a) Original Treasury Challan
   (b) Blue print of the premises/taverns in triplicate
6. Name and address of the employees if any?

Date: Signature of the applicant.

---

1. Rule 10-A inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Substituted for the heading "Application for grant of lease to sell wine" by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
3. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

[1][**FORM LFW-II**

[See Rule 4]

Lease for the Retail Sale of Wine [2][or Fortified Wine]

1. Registration No.:
2. Name and address of the licensee:
3. Name of the employee:
4. Location of the premises/wine tavern:
   (a) Door No.:
   (b) Street.:
   (c) Location of the wine tavern/wine boutique:
   (d) City/Town/Village:

I .... the Deputy Commissioner .... District in consideration of the payment of the lease amount of Rs. 1,000 (Rupees Thousand only) in case of wine tavern and Rs. 5,000 (Rupees Five thousand only) in case of wine boutique do hereby authorise Sri .... S/o .... residing at .... to sell wine [3][or fortified wine] at premises No. .... situated in .... subject to the conditions specified in the licence Form LFW-III.

Schedule showing the boundaries of the premises/wine taverns/wine boutique.

Date: Signature of the Issuing Authority with seal.

FORM LFW-III

[See Rule 7]

Licence for the Retail Vend of Wine [4][or Fortified Wine]

1. Register No.
2. Name of licencee
3. Name of the employee

[5][4. Place: Premises/wine tavern/wine boutique.—
   (a) Door No.

---

1. Form LFW-II substituted by Notification No. FD 20 PES 2005, dated 22-6-2009, w.e.f. 23-6-2009.
2. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. [illegible]

(b) Street

(c) City/Town/Village.]

5. Boundaries of premises/wine tavern:

by North:

by East:

by West:

by South:

I, ... the Deputy Commissioner........... District do hereby issue a licence to Sri .... Son of Sri .... residing at............ to sell wine [1][or fortified wine] at premises/wine tavern bearing No. .... situated in .... subjected to the conditions specified below:

LICENCE CONDITIONS

(1) The licence shall be bounded by the provisions of the Karnataka Excise Act, 1965 and the Karnataka Excise (Manufacture of Wine) Rules, 2008.

(2) The licencee shall maintain separate correct accounts of daily transactions of each brand of wine [2][or fortified wine] and submit the returns monthly to the Jurisdictional Officer in the first week of the following month.

(3) The licencee shall use metric measure approved by the department of Legal Metrology.

(4) If a cask of a particular brand of wine [3][or fortified wine] is opened, another cask of such brand shall not be opened until the wine in that cask is sold completely.

(5) Only wine [4][or fortified wine] shall be sold for consumption in the tavern.

(6) The opening and closing hours of the premises/wine tavern for sale of wine shall be from 10.00 a.m. to 11.30 p.m.

[5][(7) Wine shall be sold in sealed bottles in wine boutique.

(8) The opening and closing hours of the wine boutique for sale of bottled wine shall be from 10.00 a.m to 10.30 p.m.]

Place: Deputy Commissioner,

Date: .... District.

1. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
3. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
4. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
5. Inserted by Notification No. FD 20 PES 2008, dated 22-6-2009, w.e.f. 23-6-2009.

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FORM LFW-IV

[See Rule 10]

Occasional Licence

1. Register No.
2. Name of licencee
3. Name of the employee
4. Place: premises/wine tavern.

(d) Door No.

(e) Street

(f) Town/Village

5. Boundaries of premises/wine tavern:

by North:

by East:

by West:

by South:

I, ... the Deputy Commissioner .... District do hereby issue a .... licence to Sri .... Son of Sri .... residing at .... to sell and consume wine [1][or fortified wine] on the occasion of .... subjected to the conditions specified below:

LICENCE CONDITIONS

(1) The licence shall be bounded by the provisions of the Karnataka Excise Act, 1965 and the Karnataka Excise (Manufacture of Wine) Rules, 2008.

(2) The privilege under this licence is restricted for sale and consumption of wine [2][or fortified wine] on the premises and for the occasion of ...... and date .... and time ....

Place: Deputy Commissioner,

Date: .... District.

1. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.
2. Inserted by Notification No. FD 03 PES 2012(IV), dated 31-3-2012, w.e.f. 1-4-2012.

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ಅನುಬಂಧ-5

[1]THE KARNATAKA EXCISE (GENERAL CONDITIONS OF LICENCES) RULES, 1967

(As amended by GSR 171, dated 6-5-1969; GSR 384, dated 4-11-1969; GSR 432, dated 12-12-1969; GSR 107, dated 18-3-1970; GSR 359, dated 3-12-1975; GSR 50, dated 12-2-1976; GSR 223, dated 27-7-1976; GSR 141, dated 5-5-1977; GSR 215, dated 17-7-1978; GSR 250, dated 24-8-1979; GSR 142, dated 24-5-1980; GSR 282, dated 23-9-1980; GSR 143, dated 25-6-1983; GSR 99, dated 30-3-1985; GSR 16, dated 6-2-1990; GSR 26, dated 5-2-1992; GSR 4, dated 8-1-1993; GSR 127, dated 21-6-1993; GSR 24, dated 6-12-1993; Notification No. FD 22 PES 93(II), dated 9-5-1994; GSR 119, dated 19-7-1994; GSR 132, dated 12-8-1994; GSR 156, dated 22-9-1994; GSR 184, dated 28-11-1994; GSR 64, dated 23-5-1995; GSR 58, dated 17-4-1996 Notification Nos. FD 5 PES 2000, date 28-4-2000; FD 9 PES 99, dated 27-11-2000; FD 28 PES 2001, dated 8-1-2002; FD 27 PES 2001, dated 19-2-2002; FD 8 PES 2002, dated 6-5-2002; FD 6 PES 2003, dated 30-6-2003; FD 10 PES 96(II), dated 6-4-2004; FD 25 PES 2003, dated 20-6-2006; FD 03 PES 2007(2), dated 25-5-2007; FD 7 PES 2008(II), dated 15-1-2009; FD 11 PES 2009, dated 9-2-2010; FD 05 PES 2013(1), dated 28-2-2013; FD 03 PES 2014(V), dated 28-2-2014; FD 08 PES 2011, dated 6-8-2014; FD 08 PES 2014, dated 21-11-2014; FD 16 PES 2015, dated 4-11-2016; FD 11 PES 2015, dated 19-5-2017; FD 17 PES 2017(1), dated 20-1-2018 and FD 02 (1) PES 2019, dated 17-12-2019.)

GSR 469.—In exercise of the powers conferred by Section 71 of the Karntaka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, the draft of the same having been previously published, as required by sub-section (1) of Section 71 of the said Act, in Notification GSR No. 434 in Part IV, Section 2-C(i) of the Karnataka Gazette, Extraordinary, dated 30th September, 1967, namely.—

1. Title, extent and commencement.—These Rules may be called the [2][**Karnataka Excise (General Conditions of Licences)**] **Rules, 1967.**

(2) They shall extend to all the areas of State of Karnataka, where the Karnataka Excise Act, 1965, is in force.

(3) They shall come into force at once.

2. Application.—These rules shall apply to all licences issued under the Karnataka Excise Act, 1965 for sale of liquors and every such licence shall be deemed to include the conditions prescribed by these rules as general conditions.

1. Published in the Karnataka Gazette, Extraordinary ...

"Educational Institution" means a Pre-Primary, Primary or Secondary School [2][or college or institution] owned or managed or recognised by any local authority, State or Central Government or any College affiliated to or established or managed by any University established by law.

(2) "Licensee" means a person to whom a licence to sell Liquor is granted.

(3) "Religious Institution" means a temple, mutt, mosque, church, synagogue, agiary or other place of public religious worship which is as the case may be, established or managed or owned by a public trust, the Religious and Charitable Endowments Commissioner or a Society registered under the Societies Registration Act or Wakf Board Act.

(4) "Shop" means the licenced premises where liquor is sold].

4. Commencement of business.—Licensee shall commence his business on the 1st July or such date as may be notified by the Excise Commissioner and shall keep open on every day during such hours as may be fixed by the Excise Commissioner.

Explanation.—Any shop shall be deemed to be open when in the case of liquor shop so much of stock is always kept in the shop so as to meet the requirements for a week and in case of toddy shops to the extent of daily requirements.

[3][**4-A. Closure of shops on certain occasions.**—(i) A licensee may after intimation to the Excise Inspector of the jurisdictional range, close the shop on the following occasions, namely,—

(a) on the day of marriage in his family; or

(b) on the day of the occurrence of a death or accident on his family; and

(ii) A licensee may with the prior permission in writing of the Deputy Commissioner of Excise close the shop for renovation or repair of licensed premises for a period not exceeding fifteen days in an excise year.]

[4][**5. Restriction in respect of location of shops.**—(1) No licence for sale of liquor shall be granted to a liquor shop or premises selected within a distance of 100 metres from any religious or educational institution or Hospital or any Office of the State Government or Central Government or Local Authorities or in a residential locality, where the inhabitants are predominantly belonging to Scheduled Castes or Scheduled Tribes or within a distance of 220 metres from the middle of the State Highways or National Highways:

1. Rule 3 substituted by GSR 16, dated 6-2-1990, w.e.f. 6-2-1990.
2. Inserted by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016
3. Rule 4-A substituted by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016
4. Rule 5 substituted by GSR 127, dated 21-6-1993, w.e.f. 21-6-1993.

outside the residential locality of the village.]

[2][**Explanation.**—[3][(1) For the purpose of this rule "National Highway" or "State Highway" shall not include such parts of the National Highway or State Highway as are situated within the limits of a Municipal Corporation, City or Town Municipal Council, or such other authority having a population of twenty thousand or more.]

[4][**Explanation.**—(2) For the purpose of this rule, the expression "Hospital" means any Government Hospital, Primary Health Centre or Primary Health Unit and includes a Private Hospital or a Private Nursing Home which has the facility of a minimum of thirty beds for treatment of inpatients.

Explanation.—(3) For the purpose of this rule the expression "Office of the State Government or Central Government or Local Authority" means and includes any State or Central Government Office headed by Group 'A' or 'B' grade officers and the main Administrative Offices of Local Bodies like City Corporation, City Municipal Council, Town Municipal Council, Town Panchayat, Zilla Panchayat, Taluk panchayat and Grama Panchayat and such other offices of the State Government, Central Government or Local Authorities as may be specified by the Government from time to time.]

(2) The Deputy Commissioner of Excise shall after making such enquiry as he deems fit approve the premises of liquor shop so selected and thereafter the description of the premises of liquor shop shall be entered in the Licence to be issued:

Provided that the Deputy Commissioner of Excise may, with the prior approval of the Excise Commissioner and for reasons to be recorded in writing, permit the location of any shop within a distance of 100 metres, but not less than 50 metres from the institutions, hospital, office or locality specified in sub-rule (1) within the City Municipality or City Corporation limits.

[5][Provided further that the Deputy Commissioner of Excise may grant licence to locate any liquor shop in a premises situated within a distance of 220 metres from the middle of a State Highway or a National Highway if such premises is located in a predominantly inhabited area, or extension of a town, village, or area the population of which is more than two thousand five hundred and where a licence to locate shop in such premises was granted or was existing during the period commencing from 1st July, 1992 and ending on [6][30th June, 1994]]

1. Proviso inserted by GSR 24, dated 6-12-1993, w.e.f. 6-12-1993.
2. Explanation to sub-rule (1) inserted by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994.
3. Explanation to sub-rule (1) renumbered as Explanation (1) by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
4. Explanations (2) and (3) inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
5. Second proviso inserted by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994.
6. Read for the words and figures "30th June, 1992." by GSR 132, dated 12-8-1994.

[1][Provided also that, nothing in sub-rule (1), shall be applicable to the licensed premises located within a distance of 100 meters from any religious or educational institution or hospital or any office of the State Government or Central Government or Local Authorities, renewed or existed as on 1st July, 2016.]

[2][(2-A) Notwithstanding anything, contained in sub-rules (1) and (2) the Deputy Commissioner of Excise may with a view to secure, convenience, morality, tranquility, decency or safety of the public or for any other reason, reject the application for licence to a liquor shop or premises after recording the reasons therefor.]

(3) For the purpose of this rule while measuring the distance specified in this rule, the distance shall be measured along the nearest path by which the pedestrian ordinarily reaches, adopting the mid-point of the entrance of the shop and the mid-point of the nearest gate of the institution, hospital or office if there is a compound wall and if there is no compound wall, the mid-point of the nearest entrance of the institution of the office.

(4) The Deputy Commissioner may, by order after giving the licence an opportunity of being heard, direct such licence to shift the location of any shop,—

(a) With a view to secure the convenience, morality, tranquility, decency or safety of the public [3][or compliance] of the provisions of these rules; or

(b) where after the issue of a licence, any religious institution or educational institution is established [4][or any office of the State Government or Central Government or Local Authorities or a Hospital is opened] within the limits specified in this rule;

to any other suitable place, within such period, not exceeding three months as he may specify.]

[5][(5) The Excise Commissioner may at his discretion and for reasons to be recorded in writing exempt from the application of these rules in the case of distributor licences referred to in clause (11) of Rule 3 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968.]

CASE LAW

R. 5 — Amendment of *vide* Notification No. FD 20 PES 92, dated 21st June, 1993 — Constitutional validity of amended Rule 5 challenged — Rule placing restrictions regarding location of shops — Whether unreasonable and arbitrary, thereby offending Article 14 of the Constitution?

1. Third proviso inserted by Notification No. FD 11 PES 2015, dated 19-5-2017, w.e.f. 19-5-2017
2. Sub-rule (2-A) inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
3. Substituted for the words "and compliance" by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.
4. Inserted by GSR 156, dated 22-9-1994, w.e.f. 22-9-1994.

Shivaraj Patil, J., Held.—Rule 5 of the Rules 1967 prior to its amendment did place restrictions regarding location of shops stating that no such site shall be selected to locate a shop within a distance of 100 metres from any religious or educational institution or residential locality inhabited predominantly by Scheduled Castes and Scheduled Tribes. The amended Rule 5 includes hospitals, any office of the State Government or of the Central Government or local authorities and State and National Highways. Distance of 100 metres remains the same except in regard to highways. As far as State Highway and National Highway are concerned, distance prescribed for location of a shop is 220 metres from the middle of the State Highway or National Highway. It appears and it stands to reason as well, that the impugned rule is intended to secure the convenience, morality, tranquility, decency or safety of the public. . . . In short, the impugned rule serves the public interest and as such it is neither unreasonable nor arbitrary. — *B.N. Raghuram and Others v State of Karnataka and Others*, 1993(3) Kar. L.J. 235A.

R. 5 — Amendment of — Whether *ultra vires* Section 71 of the Act.

Shivaraj Patil, J., Held.—The contention that the impugned Rule 5 being the subordinate legislation is not a law made by the legislature of the State and that too when it is not placed on the floor of the legislature, restrictions imposed by the impugned rule are bad in law, does not merit acceptance. Having regard to the language of Section 71(3) of the Act, a valid rule made under the Act has to be taken as a law made by the State Legislature. The impugned Rule 5 is aimed at and intended to achieve some social purpose and the rule is made in the interest of safety, morality and convenience of the public and that the impugned rule having been made by virtue of the powers conferred by Section 71 of the Act definitely serves the purpose of the Act. The impugned Rule 5 is not *ultra vires* of the Act. — *B.N. Raghuram and Others v State of Karnataka and Others*, 1993(3) Kar. L.J. 235B.

Rule 5 — Karnataka Excise Act, 1965, Section 21 — Location of business of vending Indian Liquor — Notice to licences to shift location of their business — Law and order question — Challenged — Contended that no opportunity given and decision taken unilaterally to issue notice to shift place of business — Held — Act always prevail over rules — Rule 5 is only in context of shifting whereas Section 21 is in context of maintaining law and order — Main intention is to close down shops immediately — Notice is more an enabling notice rather than one for purpose of shifting — Three days time to make alternative arrangement is more than sufficient when situation is examined under Section 21 of the Act — Action of authorities have to be examined on touchstone of rules and statutory provisions rather than to examine rights of the licensee — No person has a right to trade in liquor as it is a privilege of the State — Action does not warrant interference in exercise of power of judicial review of administrative action.

D.V. Shylendra Kumar, J., Held: Petitioners have approached Court on the premise that the Deputy [illegible]

that the notice in *per se* bad in law; that it is clearly violative of sub-rule (4) of Rule 5 of the Karnataka Excise Licences (General Conditions) Rules, 1967 and they have been asked to shift their business place even without giving any opportunity; that a decision has been taken unilaterally even before the petitioners can have their say in the matter; that the rule contemplates opportunity of hearing being given to persons like the petitioners before the place of business is asked or permitted to be shifted and therefore the present action is clearly violative of the rule...... While it is true that sub-rule (4) of Rule 5 of the Rules contemplates opportunity of hearing to a person who has been asked to shift from the existing location to a new place, there cannot be any generalisation of this rule so as to either dilute the provisions of Section 21 of the Act or in any way interpret the rule working at cross purposes with the intention and object of Section 21 of the Act. While a section always prevails over a rule, in fact, Rule 5 is only in the context of shifting a premises where as Section 21 of the Act is mainly in the context of maintaining law and order, peace and it has been made in the larger public interest. ..... The notice is more an enabling notice rather than one for the purpose of shifting the premises. In fact, the main intention of the notice is to close down the shops immediately and the incidental purpose and option given is to shift to some other place and then to continue the business there. In fact, giving three days time to make alternative arrangements is more than sufficient opportunity when the situation is examined from the context of the provisions of Section 21 of the Act...... Insofar as the contention that the rights are violated is concerned, in the first instance, no person has a right to trade in liquor, it is a privilege of the State, parted by the State for a price. While it is true that the action of the authorities can be examined on the touchstone of the rules and statutory remedies, it is done more to ensure that the authorities exercising power under the Act and the Rules, act in a fair and statute conforming manner rather than to examine the rights of a licensee..... The action taken under notice is more than justified, *bona fide* action and not one warranting interference in the exercise of power of judicial review of administrative action. ....If permitting the shops to remain open in the area can create law and order situation, the authorities can definitely close down the shops immediately...... The authorities are definitely at liberty to keep the shops closed in the exercise of power under Section 21 of the Act till the decision is taken. — *Rajendra Jyotiba Desai and Another v State of Karnataka and Others*, 2009(1) Kar. L.J. 40.

Rule 5 — Oral order passed by the Chief Justice — Petitioner a social worker filed the present public interest litigation petition — Petitioner challenged the orders of excise people permitting liquor shop within 100 mts. of the Government offices, hospitals, educational institutes, harijan colonies — Excise Inspector submitted a report the shop under question situated at a distance of 106.80 mts. — Held, the distance between the proposed liquor shop and the masjid is more than 100 mts. thus PIL is dismissed by imposing cost of Rs. 1,000/-.

owned by respondent 4 for the year 2012-2013 from ...... that, the new location of the liquor shop is within 100 metres of the Government offices, hospitals, educational institutions, harijan colony and its national highway. It is also stated that there is a masjid within a radius of 100 metres. All these factual aspects are traversed by filing the affidavit of the Inspector of Excise, Belgaum North Range, Belgaum, with the statement that the distance between the masjid and the liquor shop in question is 106.80 metres and a fresh survey is conducted to verify whether the liquor shop was falling within the area as alleged, in the vicinity of the offices or institutions.. ..... Therefore, it *prima facie* appears that the allegations made in the petition are incorrect and the distance between the masjid and the liquor shop belonging to respondent 4 is more than 100 metres and hence, there is no violation of Rule 5 of the Karnataka Excise Licences (General Conditions) Rules, 1967, as alleged by the petitioner...... Under the circumstances, the petition is dismissed with nominal cost of Rs. 1,000/- to be paid by the petitioner to respondent 3 within a period of fifteen days. — *Jalil v State of Karnataka and Others*, 2013(6) Kar. L.J. 385 (DB).

Rule 5 — Petitioner had questioned before Appellate Tribunal order passed by Excise Commission withdrawing CL-7 licence that had been issued in his favour — Order passed by Tribunal declining to grant stay of withdrawal of licence pending considering of appeal challenged herein — This Court observed that Tribunal found that grant of licence obviously clashes with interest of a protected institution under Rule 5 of the Rules; that location of temple being well-within 100 metres from location of hotel — Tribunal satisfied that it was not a proper case for grant of interim stay and in its exercise of discretion declined to grant interim order prayed for — No scope for interference in absence of any special or compelling reasons forthcoming — Writ petition dismissed.

D.V. Shylendra Kumar, J., Held: The Court is of the view that even without referring to this decision of the Supreme Court, the Tribunal has applied all the principles laid down therein and has examined the relevant aspects for grant of interim order of stay and being of the opinion that there was no justification to grant an interim order as prayed for, as such an order is perfectly justified. No scope for interference in the absence of any special or compelling reasons forthcoming, as indicated from the record or as placed before the Court by the learned Counsel for the petitioner for waiving the general rule of maintaining a distance of 100 mtrs. and also in the absence of any compelling reasons to grant a CL-7 licence as recorded by the Commissioner within a distance of 100 mtrs., the order passed by the Tribunal is unexceptionable, both on facts and in law. — *Hotel Basant Residency, Bangalore v The Excise Commissioner in Karnataka, Bangalore Division, Bangalore and Others*, 2008(2) Kar. L.J. 89.

Rule 5. — Public interest litigation — Availability of alternative remedy under Act, and maintainability of — Grant of licence to run liquor shop within distance of 100 metres from educational institution, in breach of

Renewal of — Rejection of application for renewal on ground that school is likely to be opened in future within distance of 100 metres from premises licensed to run bar — Rejection of application on such ground is to be held bad in law — Licence has to be renewed if condition regarding location of licensed premises is satisfied on date of renewal.

It is not in dispute the applications filed by the petitioners have to be considered by the authorities based on the location of the premises as on the date of considering renewal or granting licence afresh. Just because a person is going to construct a school building or a school will be inaugurated in the near future that cannot be a ground for the authorities to reject in anticipation of opening of a school. Either the Excise Act or the Rules do not provide for rejection of the renewal application on the ground that in the near future a school will be opened. In the instant case, the authorities have held that the Gnana Deepika School building is under progress and therefore the renewal application of the petitioner has been rejected. If the theory of the respondent is adopted, it will be difficult in the future to grant any licence in favour of any person. A rival businessman may object on the ground that either a school or a temple will be established within the prohibited distance from the shop in question by applying the above principle all such applications have to be rejected. Under the circumstances, the reasonings given by the authorities to reject the renewal of the petitioners are also bad in law. Therefore, in anticipation that a school building will be opened in the future cannot be a ground for the authorities to reject the renewal applications of the petitioners. — *S.N. Chinappa v State of Karnataka and Others*, 2001(5) Kar. L.J. 234.

Rule 5(1) and 5(2) — Licence to vend liquor — Prohibition against locating liquor shop within 100 mts. of any religious, educational institution or hospital — Which is 'an objectionable place' — Public nuisance and maintenance of public law — Impugned order of Deputy Commissioner of Excise to petitioner to another location — Legality of — Held, contention, a relaxation was given by authorities earlier at the time of renewal of licence — Renewal of licence is a matter of right — Not sustainable — Relaxations given did not also give any reasons — Further, three hospitals are located within the vicinity of 100 mtrs. from the liquor shop — They have raised complaints against it — Further irrespective of alternative remedy under Section 61 of the Karnataka Excise Act, 1965 — On merits, no fault found in impugned order — Petition dismissed. — *S. Gopal v The Commissioner of Excise in Karnataka, Bengaluru and Another*, 2016(4) Kar. L.J. 667A.

Rule 5(1) and 5(3) — Constitution of India, Articles 47 and 226 — Grant of liquor licence — Conditions for — Information given by applicant for licence must undergo and satisfy "strict scrutiny" test — State Government should not treat its right to part with its privilege of vending liquors only as means of earning more and more revenue — Fulfillment of constitutional obligation is more important than earning revenue.

Inspector has utterly failed to discharge his function in terms of Rule 5. In a casual way, he draws a mahazar by making alleged enquiry. He does no take the actual measurement, he accepts the sketch given by the applicant. H does not make verification of the measurement in pursuance of the sketch submitted by the applicant. The Excise Inspector or the authority, which is required to verify the spot cannot mechanically submit a report. He owes a duty to take exact measurement from the center point where the shop is sought to be established to find out as to whether there are any objectionable institutions within the radius of 100 metres from the said point. From the records it appears that, with an intention to grant licence or permission, the report is submitted. . . . . The Court direct the respondent 1 to take necessary action against respondents 2 and 3 for dereliction of their duties in granting permission to respondent 4 in utter violation of Rule 5 of the Rules. The Court direct the State to take steps to implement Rule 5 in its true spirit. — *Prof. G. Shainesh and Others v State of Karnataka And Others*, 2009(1) Kar. L.J. 287B (DB).

Rule 5(1) and 5(3) — Constitution of India, Articles 47 and 226 — Interpretation of statutes — Rule prohibiting location of liquor shops within distance of 100 metres from educational or religious institutions, hospitals, offices of Government, residential locality, *etc.* — Object of — Object is to make liquor inaccessible to people in area — Rule providing for determination of prohibited distance by taking measurement along "nearest path by which pedestrian ordinarily reaches" must be interpreted in furtherance of object of Rule, and not with object to find excuse to grant licence to earn revenue, but to find way to impose restriction within framework of rule.

S.R. Bannurmath and Subhash B. Adi, JJ., Held: 'Ordinarily' means regular, usual, normal, common, often recurring, according to established order, settled, customary and reasonable. Thus, the meaning of 'ordinarily' cannot be extended to mean only the designated road or pathway and not access otherwise available to the consumer of liquor shop. If the object is to restrict the consumer within 100 metres of the educational institution and to make it inaccessible in certain areas, the rule has to be interpreted in furtherance of the said object. Rule 5 is framed in furtherance with the object under Article 47 of the Constitution of India, it cannot be said that the measurement has to be taken along with footpath then to a zebra cross designated for crossing and again to footpath and shop. If otherwise there is a way to reach the liquor shop and it is accessible to the consumer, it cannot be ignored that such a way is available for consumer, who can ordinarily reach. It is unacceptable that the consumer of liquor will have to go to liquor shop according to traffic signal. — *Prof. G. Shainesh and Others v State of Karnataka And Others*, 2009(1) Kar. L.J. 287B (DB).

Rule 5(1) and 5(3) — Karnataka Traffic Control Act, 1960, Section 14(2)(r) — Karnataka Traffic Control Rules, 1979, Rule 6 — Karnataka Traffic C

impugned communication at Annexure-K no notice was issued and the petitioner was not heard. Till the entire proceedings are concluded Annexure-K shall not be given effect to. — *Popular Wines, Kushalanagar, Madikeri Taluk v The Excise Commissioner in Karnataka, Bangalore and Others,* 2013(2) Kar. L.J. 184.

6. Sign Boards, etc.—Every licensee shall affix a sign board in a conspicuous place of the shop showing the nature of the shop, number of licence and retail price in such language as may be understood by the majority of the residents in the locality.

[1][**7. Entrance and Exit.**—There shall be not more than one and the same entrance and exit for the CL-2 shop and CL-11 (C) shop.]

8. Mixture Prohibited.—The licensee shall not mix any material injurious to the health or mix anything to decrease or increase the strength of the liquor or its intoxicating power.

9. Employment of Women and Certain others prohibited.—(1) The licensee shall not employ any women [2][xxx].

(2) He shall not employ any person who has been convicted.

(3) The licensee shall not employ, in any capacity, a person who is below the age of 18 years or a person who is suffering from any contagious disease.

CASE LAW

Rule 9 — Employment of women — Prohibition of — Rule must be understood as forbidding women being employed to serve liquor to customers — Rule must be interpreted strictly and must not be allowed to affect right of employer or employee beyond what is absolutely essential — Rule cannot be pressed into service to prevent employment of women artists in restaurants for purpose of singing or playing musical instruments.

Tirath S. Thakur, J., Held: The Rule, is in three parts, one dealing with employment of woman, the other employment of convicts and the third employment of any person who is below the age of 18 years or who is suffering from any contagious disease. Sub-rules (1) and (2) simply provide that the licensee shall not employ any woman or any person who has been convicted. If the intention was to forbid the licensee from employing women or convicts also "in any capacity" nothing prevented it from making a provision to that effect as indeed it has done in the case of minors and persons suffering from any contagious disease. This would imply that in so far as women are concerned, their employment is forbidden but not in every capacity. Such employment may in certain capacities and situations, be permissible. Employment of women under Rule 9 of the General Conditions

1. Rule 7 substituted by Notification No. FD 08 PES 2011, dated 6-8-2014, w.e.f. 6-8-2014.
2. The words "other than his family member" omitted by GSR 171, dated 6-5-1969, w.e.f. 15-5-1969.

there may be other capacities in which a woman may be employed by the licensee, which capacities may be wholly unconnected with the actual service of liquor to the customers. Rule 9 imposes a restriction which must be interpreted strictly so that the same does not operate to affect the right of the employer or the employee beyond what is absolutely essential. Rule 9 must be understood to forbid the licensee from employing women with a view to serving liquor to the customers or handling liquor at any stage. The intention of the rule-making authority obviously is to prevent the licensees from engaging women for promoting the sale of liquor. That purpose can be served well even when the provision is understood in a restricted sense. Suffice it to say that Rule 9 does not forbid employment of a female artist whether for instrumental or vocal music so long as any such artist is not employed to serve or handle liquor for the customers visiting any such place of public entertainment. — *R. Shankaregouda v The Commissioner of Police, Bengalore,* 1998(3) Kar. L.J. 494E.

Rule 9 — Karnataka Police Act, 1963, Section 31 — Liquor shop — Facilities provided like — Live music — Songs by men and women — Police tried to control — Petitioner contends that Police have no powers except Excise Officials — Provisions of both the Acts, Rules and Regulations discussed at length — Finally, held, Police are having powers to enter premises to control the business being carried by petitioner thus writ petition is dismissed.

S. Abdul Nazeer, J., Held: The petitioner is a CL-9 licence holder under the Karnataka Excise Act, 1965. She has been carrying on the business at No. 45/1, Mission Road, Bangalore. Under the said licence, she is authorised to provide liquor along with refreshment or food for the customers. The contention of the petitioner is that her business is under the control of Excise Department created under the provisions of the Excise Act. It is further contended that she has been carrying on the business within the territorial limits of the local police. Respondents are periodically visiting her business premises and are exercising control in their own way though they are not vested with such power and jurisdiction in view of the bar contained under Section 51 of the Act and the corresponding Rules, namely, Karnataka Excise (Entry, Inspection and Investigation Authorisation) Rules, 1967. The respondents tried to interfere with the business of the petitioner with regard to the facilities provided like live music, songs sung by men and women along with musical instruments...... The licensing authority or the officer so authorised may, if need be, seek assistance of any other authority or authorities during such inspection. Therefore, once the place in question is a public place, the Police have access as a matter of right to enter the premises..... He concludes by submitting that having regard to the different provisions of the Excise Act and the Police Act, petitioner is not right in contending that the Police have no power or authority to enter and inspect the business premises of the petitioner...... The empowerment under Section 51 is necessary only for the purpose mentioned in clauses (a) to (c) and for the purpose of Section 54, the Police Officer has authority to enter any place as defined under the Act. A

and without any male help she cannot carry on the said business and sought for refund of the EMD amount deposited by her husband. Since the respondents have not refunded the said EMD amount, she filed writ petition seeking refund of the EMD amount. In the meanwhile, she received an endorsement dated 30-10-1999 informing the appellant that the auction sale of right to vend arrack has already been confirmed by the Commissioner in respect of Mandya and Pandavapura Taluks, hence the EMD amount deposited by her husband cannot be refunded. Further she also received a demand notice dated 13-1-2000 demanding a sum of Rs. 3,15,18,991/- towards the difference of bid amount between first auction and the second auction. She also sought for quashing of the said demand notice and endorsement........ There is no infirmity or irregularity insofar as forfeiting the EMD amount is concerned. However fastening the liability on the appellant to pay difference of the kistht amount is contrary to law. Hence the order of the learned Single Judge requires modification. The order passed by the learned Single Judge is modified. The demand notice dated 13-1-2000 issued by the Deputy Commissioner, Mandya is quashed. However, forfeiture of the EMD amount is confirmed. — *Smt. Guruvamma v State of Karnataka and Others,* 2014(5) Kar. L.J. 63 (DB).

[1][**14. Sales only for cash.**—x x x x x.]

[2][**15. Payment of rent** *etc.*—(1) The rent payable to the Government in respect of the shop or shops shall be credited by the licensee in the taluk or district treasury where the shop is situated. Every month's rent shall be credited on or before the last working day of that month in which case no interest shall be levied. Interest at the rate of fifteen per cent per annum shall be charged from the first day of the succeeding month on the outstanding amount of rentals as long as it remains undischarged irrespective of the expiry of the lease period or the termination of lease. The amount remitted after the due date shall be first adjusted towards interest due as on that day and the balance, if any, shall be adjusted towards the monthly rent. If the rent for any month is not credited before the end of that month or before the expiry of the time granted under sub-rule (1-A), the lease shall be determined, the licence shall be cancelled and the right of retail vend of liquor shall be disposed of afresh.]

[3][(1-A) the Deputy Commissioner may, on an application made to him in this behalf, if satisfied for reasons to be recorded in writing that the monthly rent could not be paid before the end of the month due to circumstances beyond the control of the licensee, grant time upto and inclusive of the tenth day of the succeeding month. If such rent together with interest due is not paid within the time so granted, the Deputy Commissioner may, on an application made to him in this behalf and after obtaining adequate security in the form of irrevocable bank guarantee of a Scheduled Bank for an amount

1. Rule 14 omitted by Notification No. FD 16 PES 2015, dated 4-11-2016, w.e.f. 4-11-2016.
2. Rule 15 substituted by Notification No. [illegible]

equal to the amount of one month's rent together with interest due for the full month, grant further time till the end of such succeeding month.]

[1][(1-B) The Excise Commissioner may, by order in writing, grant time for a further period not exceeding fifteen days, if, on application made to him in this behalf through the Deputy Commissioner he is satisfied that the monthly rent could not be paid for reasons beyond the control of the licensee].

[2][(1-C) If the rent for any month is not paid on or before the date specified in sub-rule (1) or before the expiry of the time granted under sub-rule (1-A) or under sub-rule (1-B), the lease shall be determined and the licence shall be cancelled and the right to vend liquor shall be disposed afresh in such manner as the State Government may direct and such disposal shall be at the risk of the defaulter who shall be liable for all losses that may be sustained by the State Government and the Deputy Commissioners may forfeit the deposits of the defaulter either in full or in part with the approval of the excise Commissioner.]

(2) The lease shall be determined and the licence cancelled in the case of tappings of the trees without payment of duty thereof on behalf of the licensee and tree tax and tree rent is not remitted immediately, after they are booked for infraction.

(3) The Superintendent of Excise may stop the issue of the allotted liquor or trees for the realisation of rent, tree tax and tree rent.

(4) If the rent, tree tax and tree rent are not credited even in respect of any one shop or the group of shops of the licensee, the lease shall be determined and the licence cancelled and the group of shops may be put to reaction.

(5) The advance rent deposited by the licensee before the commencement of the lease shall be adjusted towards the rent of the last month of the lease period.

CASE LAW

R. 15 — As amended by Notification dated 25-6-1983 w.e.f. 1-7-1983 — Leases for excise year 1-7-1983 to 30-6-1984 — Auction for — Stipulation in the Notification, dt. 25-6-1983 that lease shall be subject to provisions of Act & Rules as amended from time to time — *Held,* not open for bidder to contend that the auction which had taken place before publication of Rules would not be subject to the impugned rule. — *State of Karnataka v Anjanappa & Co.,* 1988(2) Kar. L.J. 118 (DB) : ILR 1988 Kar. 1695 (DB).

Rule 15 — As amended by Gazette Notification dated 25-6-1983 — Levy of interest on payments made beyond stipulated period — Source of power for State Government for such levy is Section 71(1) and (2)(h) of Karnataka Excise Act, 1965 : Sub-clause (ii) of clause (h) of sub-section (2) of Section 71 has no applicability — Rate of interest enhanced from 6½% to 18% p.a. by Gazette Notification dated 25-6-1983 held to be not *ultra vires* the rule making power of the State Government — Scope of the Rule — Explained. — M/s. [illegible]

R. 15(1-A) — Waiver of interest on the excise revenue arrears payable under Rule 15 — Whether beyond the rule-making power of the State Government?

K.A. Swami, Actg. C.J. and L. Sreenivasa Reddy, J., Held.—No provision of the Act has been pointed out to us which places the impugned rule beyond the power of the rule-making authority or indicates that the impugned rule is contrary to any of the provisions contained in the Act. We have already pointed out that interest is levied only under Rule 15 of the rules which is framed in exercise of the rule-making power. If that be so, it follows that in exercise of the very rule-making power, the State Government can either modify Rule 15 by modifying the rate of interest or mode of recovery or by completely waiving the interest. Therefore, we are of the view that Rule 15-A cannot be held to be beyond the rule-making power of the State Government. — *K.P. Ramesh v State of Karnataka and Another*, 1993(2) Kar. L.J. 388 (DB).

[1][15-A. Waiver of interest.—Notwithstanding anything contained in these rules, the State Government may if it considers necessary so to do, in the interest of expeditious recovery of arrears of excise revenue, [2][by notification issued in this behalf] waive the interest payable under Rule 15, and may grant such instalments, not exceeding three monthly instalments, as it thinks fit for payment of arrears of principal amount, wherever the defaulters come forward and make payment of the outstanding principal amount:

[3][Provided that this scheme shall be in operation over such period as the State Government may specify in the notification.]

16. Suspension of licence.—(1) The licence may be suspended by the Deputy Commissioner when the licensee makes default in payment of the rent, tree tax and tree rent of any shop or group of shops.

(2) When a licence is suspended, the Deputy Commissioner may make alternate arrangements for the sale of liquor. Any loss which the Government may incur in this behalf may be recovered from the licensee and the Deputy Commissioner may forfeit the deposits either in full or in part with the approval of the Excise Commissioner.

17. Transfer of lease not permitted.—The right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner.

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1. Rule 15-A inserted by Notification No. FD 5 PES 2000, dated 28-4-2000 and shall be deemed to have come into force w.e.f. 1-4-2000.
2. Inserted by Notification No. FD 25 PES 2003, dated 20-6-2006, w.e.f. 20-6-2006.
3. Proviso substituted by Notification No. FD 25 PES 2003, dated 20-6-2006, w.e.f. 20-6-2006.

Rr. 17 & 17-A — Circular dated 2-5-1984 and 24-10-1984 — Letter number EXE. SO. 28/1978-89, dated 15-4-1986 — Circular dated 2-5-1984 not in conformity with law: transfer on basis of circular unsustainable.

S. Mohan, C.J. and N.Y. Hanumanthappa, J., Held.—The entire case is based on the Circular dated 2-5-1984. As rightly pointed out in the order dated 15-4-1986 this Circular is contrary to law. Only when the authority has power to do something and if he makes a promise and if the petitioner acts on such promise the question of equitable estoppel would arise. Where contrary to the statutory provisions and where there is no scope for transfer by volition the transfer is sought to be effected by merely payment of Rs. 500/- based on the Circular, such a transfer is *ab initio* void. If this position is arrived at, the demand for Rs. 12,500/- treating this as a fresh licence is perfectly valid. — *T. Thimmappa and Others v The Excise Commissioner in Karnataka, Bangalore and Others*, 1992(1) Kar. L.J. 360 (DB) : ILR 1991 Kar. 3710 (DB).

Rules 17 and 17-B — Bar licence — Transfer of — Not transferable except with previous permission of Deputy Commissioner — Licensee intending to transfer his licence has to make application therefor with payment of prescribed fees, and Deputy Commissioner can transfer licence in favour of person named in application only if such person is eligible for grant of licence under Act — Licensee, not capable of running business himself, cannot permit another person to carry on business on basis of lease agreement or power of attorney or like — Such arrangement to run business is not permissible, and where it is resorted to, licence is liable to be cancelled.

The Clause 9 licence stand in the name of respondent 3 who has submitted the applications for renewals. Simply because the name of Hotel Vandana is written thereon, it does not confirm any right on the petitioner. No order under Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 have been produced and thus on the basis of any agreement registered or unregistered the petitioner cannot have the right to vend liquor in respect of the licence issued to respondent 3. The State has to be very careful while granting the licence. If a person is not capable of running the business himself or through his staff should not ordinarily be entitled for any licence. Sub-letting or sub-leasing of premises where a business is carried on is also not permitted. In cases where it is found that on the basis of some agreement the business is being carried without permission of the Commissioner, it was appropriate that even the licence granted to the person who has permitted to delegate his power to somebody else should have been cancelled. No person can carry on business of vending the liquor without a proper licence and if vending of the liquor is permitted, under such arrangement or agreement it would frustrate the very object of having the control over the licensee or to make him even in some cases criminally liable. The petitioner has no *locus standi* to challenge the order of the Deputy Commissioner for transfer of the place of business and the petition is therefore liable to be dismissed. . . . . It may also be observed that the Excise Commissioner should take immediate steps in cases like the present one where the business is not being carried on by the licensee but by some other person on the basis of lease agreement or

the power of attorney or the like, then the proper step would be to cancel the licence itself. — *Mahabala Uggappa Adappa v Excise Commissioner and Others.* 2000(2) Kar. L.J. Sh. N. 4.

Rules 17 and 17-B — Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, Rule 3(9) — Bar licence — Cancellation for unauthorised transfer of — Transfer involves parting with ownership of business of running bar for which licence was granted, and transfer becomes unauthorised attracting penalty of cancellation of licence, only if transfer has been effected without previous permission of designated authority and without payment of requisite transfer fee — Act does not contemplate that licensee must himself run bar by being present on premises all time — He is not prohibited from managing business through servant or agent — Power of attorney simpliciter granted to agent to manage business does not amount to transfer of business to agent — Unless there is finding that licensee has divested himself of ownership of business, licence cannot be cancelled — Cancellation of licence in absence of such finding, held, amounts to wrongfully preventing licensee from carrying on her business.

Rule 17 of the Karnataka Excise Licences (General Conditions) Rules, 1967 provides that the right of retail vend of liquor shall not be transferred by the licensee except with the previous permission of the Deputy Commissioner. Rule 17-A provides that in the event of death of the licensee during the currency of the licence, the Deputy Commissioner may, on an application by the legal heirs of the deceased with the previous sanction of the Excise Commissioner, transfer the licence in their favour. Rule 17-B provides for transfer of licences. It provides that in regard to licences issued for sale of Indian liquor or foreign liquor or both, in Form No. CL-1 or CL-2 or CL-7 or CL-9 under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, the Deputy Commissioner may on an application by the licensee and subject to payment of transfer fee equivalent to the annual licence fee specified and with the prior approval of the Excise Commissioner, transfer such licence in favour of any person named by such licence, if such person is eligible for grant of a licence. . . . . The State has the exclusive privilege and right of manufacturing and selling intoxicating liquor. Grant of a CL-9 licence is a privilege or permission granted by the State to the licensee to sell liquor in the manner prescribed in the licence. Parting with the possession and control of the business covered by the CL-9 licence would amount to transfer of such privilege and licence and such an act without the permission of the licensing authority, will be illegal and violative of the terms of licence. But, if the licensee retains possession and control, but only authorises a servant or an agent to manage the business on his behalf, there is no illegality or infringement of the conditions of licence. In fact clauses (b) and (c) of sub-section (1) of Section 29 contemplate the business of a licensee being run by any agent or servant with the express or implied permission or authority of the licensee. . . . . A general power of attorney is executed as a matter of convenience. By executing such a power of attorney, the executant [principal] provides for management of his affairs/business ...

not personally able to attend to his affairs/business due to absence or due to incapacity or other preoccupation. The acts of the agent are binding on the principal. In spite of the absence of the principal (executant) granting the power of attorney, the possession and control of the affairs/business remain with the principal. A general power of attorney granted to an Agent to manage the business of the principal does not create any right, title or interest in the asset or business which is the subject-matter of the power of attorney, in favour of the attorney holder. Power of attorney is revocable at the will and pleasure of the principal. In short, under a general power of attorney simpliciter [either general or special], there is a mere authority to act, unaccompanied by any interest of the agent in the subject-matter of the power of attorney. A common example of such power of attorney is what is granted by a member of family, to another family member to run/manage the business/affairs of the grantor. . . . . When companies and firms can apply and obtain licences and run the business through their authorised agents or employees, there is nothing *per se* objectionable about a person giving a general power of attorney to his family member or friend, or an employee, to run a Bar and Restaurant. A company or firm or individual may own a chain of Restaurants all over the country or State and may grant a power of attorney to an agent/employee to look after the day-to-day management and to apply for licence every year. Mere execution of a power of attorney by the licensee to a family member or employee or friend, cannot lead to suspension or cancellation of the licence or refusal to grant or renew the licence. . . . . . Thus, only if it is established that the possession and control of the licensed business has been transferred to someone else, or that the licensee has not retained any control over the licensed business, or where there is a transfer of licence without permission, the licence will be liable to be cancelled. On the other hand, if the licensee continues to have control of the licensed business, but runs the business through a servant or an authorised agent, (that is attorney holder) then there is no violation of the terms and conditions of licence, irrespective of whether the licensee lives in the city/place where the business premises is situated. The question of cancellation of the licence will not arise, in such a case. . . . . In this case, there is no finding that the licensee petitioner has parted with the possession of the licensed premises or the control of the business to anyone else, in particular to the power of attorney holder. Nor has the licence been transferred by the petitioner to anyone else. The power of attorney was granted to a family member, even prior to the date of the licence being transferred from the name of the petitioner's mother to the petitioner. The petitioner obtained transfer of the licence from the name of her mother to her name by making an application through the said power of attorney holder. Grant of a power of attorney by a licensee to a family member, to manage the affairs or business of the licensee, cannot be considered as parting with the possession or transferring the control or transferring the licence to someone else. The third respondent has completely overlooked this aspect of the matter and has misconstrued the observations of this Court in Mahabala ...

by respondent 2. The matter requires to be reconsidered matter is remitted to respondent 2 for reconsideration in accordance with law. The impugned order dated 11-2-2015 is set aside. The law. All contentions of both the parties are kept open. Respondent 2 shall dispose of the petitioner's claim expeditiously and in any event within two months from the date of receipt of a copy of this order. The petition stands disposed of accordingly. — *Smt. Bhagirathi v State of Karnataka and Others,* 2015(3) Kar. L.J. 292.

[1][18. **Authorised persons only to be in-charge.**—The licensed shop shall not be put in the charge of any person other than the one authorised by the licensee and in respect of whom a nowkarnama is issued by the Inspector of Excise. A Court-fee stamp of rupees two shall be affixed to each nowkarnama. A certificate from the Health authority to the effect that the persons so authorised are not suffering from any contagious disease, shall be produced by the licensee before the Inspector of Excise once in six months.

This provision shall be applicable to employees working in Breweries, Distilleries, Wineries and also toddy tappers working under toddy licensees.

Explanation.—For the purpose of this rule Health authority means "any Registered Medical Practitioner.]

19. **Report of breach.**—Every breach of the conditions of the licence or provisions of the Karnataka Excise Act, 1965 by any servant of the licensee or other person shall immediately be reported by the licensee to the Excise Officer and the licensee shall comply with the orders of the Excise Officer in this behalf.

20. **Licensee not to be interested in Excise Officer.**—No licensee shall have any pecuniary transactions with the Officers of the Department of Excise, Police or Revenue.

21. **Inspection.**—(1) The following officers shall be authorised to inspect any shop,—

(a) Any Excise Officer not below the rank of Sub-Inspector of Excise;

(b) Any Revenue Officer not below the rank of Tahsildar;

(c) Any Gazetted Officer of the Medical or Health Department.

(2) The licensee shall produce the receptacles kept for measurements of the liquor at the time of Inspection.

(3) The licensee shall maintain an inspection book and other registers as may be prescribed by the Excise Commissioner and keep a record of all inspection notes and make proper entries. The Inspection

1. Rule 18 substituted by GSR 359, dated 3-12-1975, w.e.f. 11-12-1975.

CASE LAW

Rule 21 — Criminal Procedure Code, 1973, Section 482 — Prayer — For quashing of FIR — Offences — Under the Karnataka Excise Act, 1965 — Search conducted without recording the grounds for his belief — That such an offence committed — Held, such probable defence is available only at the time of trial, thus writ petition is dismissed.

N. Ananda, J., Held: Search conducted by an officer, without recording of the grounds for his belief that an offence under the Act was likely or being committed would vitiate entire proceedings and investigation of first information would be abuse of process of law...... It is not possible to take into consideration the probable defence that may be available to petitioner during trial. At this stage, it is not possible to hold that there was violation of the provisions of Section 54 of the Act. Such contention can be raised only after final report is filed against petitioner. — *Smt. Mahananda v State of Karnataka,* 2013(1) Kar. L.J. 178.

22. **Conviction entails cancellation of all licences.**—Where a licensee holds more than one licence and he is convicted for breach of conditions of any one of such licences, the other licences also may be cancelled.

[1][23. **Shifting of shops.**—Subject to the restrictions specified in Rule 5, the Deputy Commissioner may permit a licensee to shift the location of his shop from one place to another within the limits of a Grama Panchayat or within the [2][Municipal Area] or City Municipal Corporation] [3][on payment of a fee equivalent to [4][fifty per cent] of the licence fee charged on the licence in respect of such shop:]

[5][x x x x x:]

[6][[7][Provided that] subject to Rule 5, in case of CL-2 [8][and CL-9] licences, the Deputy Commissioner may permit a licensee to shift the location of his shop.—

(a) within the limits of Municipal Area/Town Panchayat Area or City Municipal Corporation;

1. Rule 23 substituted by Notification No. FD 22 PES 93(ii), dated 9-5-1994, w.e.f. 9-5-1994.
2. Substituted for the words "territorial division of Municipality" by GSR 119, dated 19-7-1994, w.e.f. 19-7-1994.
3. Inserted by Notification No. FD 5 PES 2000, dated 28-4-2000 and shall be deemed to have come into force w.e.f. 1-4-2000.
4. Substituted for the words "twenty-five per cent" by Notification No. FD 03 PES 2014(V), dated 28-2-2014, w.e.f. 1-7-2014.
5. First proviso omitted by Notification No. FD 08 PES 2011, dated 6-8-2014, w.e.f. 6-8-2014.
6. Second proviso inserted by Notification No. FD 7 PES 2008(II), dated 15-1-2009, w.e.f. 15-1-2009.
7. Substituted for the words "Provided further that" by Notification No. FD 17 PES 2017(1), dated 20-1-2018 and shall be deemed to have come into force w.e.f. 27-6-2017
8. Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010.

conjoint reading of these provisions would clearly indicate that the Police Officer is authorised to enter the premises of the petitioner holding CL-9 licence and carrying on the business of bar and restaurant. . . . . . . It is also relevant to notice some of the provisions of the Karnataka Police Act, 1963. The Police Act has been enacted to provide uniform law for regulation of police force in the State of Karnataka, maintenance of public order, for prevention of allied matters and for certain other purposes. . . . . . In the present case, the question is whether the police have power or authority to enter the premises of the petitioner where she has been carrying on the business having regard to the different provisions of the Excise Act and the Police Act. . . . . . There is no merit in this writ petition. It is accordingly dismissed. — *Smt. Manjula v The Commissioner of Police, Bangalore City, Bangalore and Another*, 2013(2) Kar. L.J. 369.

Rules 9 and 11 — Karnataka Industrial Areas Development Act, 1966 — Refusal to renew the Excise Licence issued to petitioner in the light of non-availability of provision for running bar or other than industrial activity in industrial area — Order issued by Deputy Commissioner on the basis of impugned communication of KIADB to the Excise Commissioner — Held, communication of KIADB is wholly without jurisdiction and an unnecessary interference — On facts, no statutory requirement for either Excise Authority to take any such clearance from KIADB — Hence, impugned endorsement quashed. — *Hotel Royal Inn, Hebbal Industrial Area, Metagalli, Mysuru v State of Karnataka and Others*, 2017(6) Kar. L.J. 356.

10. Liquor not to be sold to certain persons, *etc.*—(1) No liquor shall be sold or otherwise given to the following persons, namely.—

(a) insane persons;

(b) persons known or believed to be drunk;

(c) persons known or suspected to be about to take part in a riot or disturbance of public peace or any other crime;

(d) Excise Officials, Police Officers, Railway Servants and Motor Bus Chauffeur, on duty, or in uniform;

(e) persons below the age of [1][twenty-one years.]

(2) No quantity of liquor shall be allowed to be taken out of the shop except to the extent permitted by the rules under Karnataka Excise Act, 1965.

CASE LAW

Rule 10(1)(e) — Criminal Procedure Code, 1973, Sections 482 and 2(c) — Excise offence — Criminal proceedings initiated against excise licensee for — Sale of liquor to persons below age of 21 years — Where allegations make out ingredients of offence, proceedings cannot be quashed merely on ground that offence is non-cognizable — Offence, held is cognizable. . . .

. . . In view of the clear provisions of Section 52 of the Excise Act, the offence comes within the definition of Section 2(c) of the Code of Criminal Procedure. . . . . Under the circumstances, there is no merit in the petition. Accordingly, the petition is dismissed. — *C.P. Tayal and Others v State by Ashoknagar Police Station, Bangalore*, 2001(4) Kar. L.J. 601(B).

[1][**10-A. All shops shall remain closed on Gandhi Jayanthi Day.—**All shops shall remain closed throughout the second day of October of every year.

Explanation.—For the purpose of this rule "throughout the second day of October of every year" means the period of twenty-four hours commencing from twelve mid-night between the first day and second day of the October of every year].

[2][**10-B. Prohibition of sale of liquor during election and counting days *etc.*—**In order to comply with the directions of the Election Commission of India or State Election Commission for banning sale or supply of liquor and intoxicants during election to the House of the People, State Legislative Assembly, Zilla Panchayat, Taluk Panchayat, Gram Panchayat and Urban Local Bodies, the District Magistrate may by notice in writing to the licensee require that any shop in which any liquor is sold or supplied shall be closed at such times and for such period as the Election Commission concerned may consider necessary for conduct of peaceful, fair and free elections. The licensee shall not be entitled to any compensation for such closure.]

[3][**11. Certain Acts not permitted.—**(1) No gambling, dance, gathering, feast or any kind of entertainment or unlawful act shall be permitted in such premises.

(2) The licensee shall sell liquor only in the approved shop and shall not sell in such premises any article other than such article and except to the extent permissible in accordance with the terms of the licence].

CASE LAW

Rule 11 — Entertainment — Prohibition of, in place where sale of liquor is licensed — Prohibition is of only unlawful entertainment — Rule does not forbid live-band or music in restaurant licensed to sell liquor, food and refreshments.

Tirath Singh Thakur, J., Held: The words used in Rule 11(1) of Excise Licences (General Conditions) Rules, 1967, are "any kind of entertainment" and not "any kind of amusement". The term "Entertainment" has not been defined either in the Excise Act or in the Rules mentioned above. It has not been defined even in Police Act, or the Amusement Licensing Order issued under the same. The expression "Entertainment" has a wider meaning. Any such wide meaning does not fit into the scheme of Rule 11 of the General Condition Rules. That is because, if 'Entertainment' is understood in the wider sense the rule would forbid the licensee from serving food and

1. Rule 10-A inserted by GSR 290 ...

refreshment is also served. The wider meaning given to the term entertainment has no application to Rule 11 in which the said term has been used in a restricted sense and ought to be understood in the context in which it appears. When so viewed, the expression "any kind of entertainment" in Rule 11, cannot include playing of music whether live or taped. The expression any kind of entertainment appears in the company of the expression 'unlawful act' and must therefore take its colour from the said expression so as to be understood to mean an entertainment which has an element or tendency of being unlawful. . . . Rule 11 of the General Condition Rules, does not forbid live music in a Restaurant holding a CL-9 licence for serving liquor, food and refreshment. — *R. Shankaregouda v. The Commissioner of Police, Bangalore,* 1998(3) Kar. L.J. 494D.

[1][**11-A. Prohibition of publication of advertisements relating to intoxicants** ***etc.***—(1) No licensee or any person on his behalf shall use the name and other details contained in the label of the brand of liquor approved by the Excise Commissioner under Rule 15 of the Karnataka Excise (Bottling of Liquor) Rules, 1967 for advertising the sale or consumption of liquor, by way of printing or publishing in any newspaper, news sheet, book, leaflet, booklet, or any other single or periodical publication or displaying hoardings or in any other manner on highways, in lanes, by lanes or in public places, or cinematographic film or slides or sign board, balloon, parachute or any announcement made by any means or producing or transmitting light, sound or smoke, as a means or method of attracting public attention:

Provided that nothing contained in sub-rule (1) shall apply to catalogues or price lists.

Explanation.—For the purpose of this rule advertisement includes the advertisement made by the licensee or by any person on his behalf of any product or material, other than liquor, with the name, figures, pictures, emblems, logos or pattern and style of letters, art work, colour combination *etc.,* resembling or identical to the name and other details of liquor contains in the label approved by the Excise Commissioner under Rule 15 of the Karnataka Excise (Bottling of Liquor) Rules, 1967.]

12. Intimation to Police Officers.—The licensee shall give intimation to the Police Officers of any thief or person suspected to have committed any offence when such person is in his shop.

13. Customers not to be allowed to stay at night.—The licensee shall not allow any person other than a member of his family or his authorised servant in the shop during nights after the time fixed for closing the shop.

[2][**Explanation.**—For the purposes of this rule 'Family' means the wife or husband, legitimate children and step children or any other member residing with and wholly dependent on such licensee.]

1. Rule 11-A inserted by Notification No. FD 10 PES 96(II), dated 6-4-2004, w.e.f. 6-4-2004.
2. Explanation to Rule 13 added by GSR 171, dated 6-5-1969, w.e.f. 15-5-1969.

accordance with Rule 13 — Karnataka High Court Act, 1961, Section 4 — Permissibility — Appellant also sought for setting aside endorsement dated 30-10-1999 and demand notice dated 13-1-2000 issued by Deputy Commissioner of Excise, demanding a sum of Rs. 3,15,18,991/- towards the loss caused to the Government in view of re-auction — Held, order passed by learned Single Judge is modified and demand notice dated 13-1-2000 issued by Deputy Commissioner, Mandya is quashed — However, forfeiture of the EMD amount is confirmed.

Dilip B. Bhosale and B. Manohar, JJ., Held: The appellant herein had filed a writ petition seeking writ of *mandamus* directing the respondents to refund the earnest money deposited by her husband in accordance with Rule 13 of the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969 in respect of Mandya Taluk and Pandavapura Taluk with interest as the offer to take the right of retail vend of liquor given by the husband of the appellant was frustrated due to his death. Further the appellant also sought for setting aside the endorsement issued by the Deputy Commissioner of Excise, demanding a sum of Rs. 3,15,18,991/- towards the loss caused to the Government in view of re-auction. In pursuance of the notification dated 12-4-1999 issued by the Commissioner of Excise in Karnataka for auctioning the right to vend arrack for the Excise year 1999-2000 for Mandya District, the husband of the appellant participated in the auction conducted on 5-5-1999 and he was the highest bidder in respect of Mandya and Pandavapura Taluks. He had offered a sum of Rs. 68,00,100/- insofar as Mandya Taluk and Rs. 26,00,000/- in respect of Pandavapura Taluk for the period from 1-7-1999 to 30-6-2000. Immediately on auction, on provisional confirmation, the husband of the appellant deposited one month's rent as per Rule 13(1) of the said Rules for the confirmation of the bid. The Deputy Commissioner of Excise by his order dated 12-5-1999, confirmed the bid of the said Annegowda as required under Rule 15 of the Lease Rules. Immediately on confirmation, the successful bidder has to fulfill the provisions of Rules 16 and 17 by entering into an agreement of lease with the State Government incorporating the terms and conditions under which the rate of retail vend of liquor in respect of the said two taluks. Further, within 15 days from the date of communication of the order of confirmation, the successful bidder has to furnish security for an amount equal to 3 and 1/10th of monthly rent in the form of cash deposit in the form of Irrevocable Bank Guarantee. It is the case of the appellant that even before communication of the confirmation order, the said Annegowda died on 16-6-1999. Hence, he could not fulfill the requirements under Rules 16 and 17 of the Rules. On 26-6-1999, the Deputy Commissioner of Excise by his intimation letter informed the appellant that the bid offered by the said Annegowda was confirmed, whether the appellant is willing to continue the said business and if she is not willing, the EMD amount furnished by her husband Annegowda will be forfeited and re-auction will be held in respect of two taluks. The appellant by her letter dated 28-6-1999 informed the Excise Commissioner that she has no experience with regard to the retail vend of arrack; she is aged about 60 years

(b) from category (a), (b), (c) and (d) areas to category (e) area of item 2 [1][and item 9] of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District;

(c) within category (e) area of item 2 [2][and item 9] of sub-rule (1) of Rule 8 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968 within the District:]

[3][Provided further that the following exemptions or relaxations shall be granted as a one-time measure during the period commencing from 27th day of June, 2017 and ending on 31st day of December, 2017 to those affected licences, and restricted to renewal of licences for the Excise year 2017-18, which are to be shifted in compliance with the judgment of the Hon'ble Supreme Court in Civil Appeal Nos. 12164 to 12166 of 2016 (Arising out of SLP (C) Nos. 14911 to 14913 of 2013) and Civil Appeal No. 12170 of 2016, dated 15-12-2016.—

(i) the fee prescribed for shifting of licence is reduced by 50% to the aggrieved licensees to shift the affected licence.

(ii) the maximum quota fixed as per Rule 12 of the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, is relaxed in respect of shifting of affected CL-2 (Retail Shop) licences.

(iii) the restrictions specified in the first proviso to this rule are relaxed and the Deputy Commissioners of Excise are empowered to pass shifting orders in respect of affected licences within the jurisdiction of the concerned district.]

24. Licensee not entitled to compensation.—Where a licence is cancelled during the currency of the licence, the licensee shall not be entitled to any compensation of any kind.

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1. Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010.
2. Inserted by Notification No. FD 11 PES 2009, dated 9-2-2010, w.e.f. 9-2-2010.

NOTIFICATIONS UNDER KARNATAKA EXCISE LICENCES (GENERAL CONDITIONS) RULES, 1967

NOTIFICATION

No. ECI 168 IML 98, Bangalore, dated 21-6-2000

Karnataka Gazette, Extraordinary No. 1019, dated 22-6-2000

In exercise of the powers conferred under Rule 4 of the Karnataka Excise Licences (General Conditions) Rules, 1967 and in supersession of all the earlier notifications issued regarding the business hours of the licences mentioned below, the Excise Commissioner in Karnataka, Bangalore hereby notifies the hours of business in respect of different licences throughout the State of Karnataka with effect from 1st July, 2000 as detailed below.—

	Description of the licence/shop	*Hours of Business*
1.	Arrack Shop	9.00 AM to 9.30 PM
2.	Toddy Shop	.00 AM to 9.30 PM
3.	Wholesale Liquor Shop (CL-1 licences)	9.00 AM to 7.00 PM
4.	Retail Shop for vend of IML or Foreign Liquors (CL-2 licences)	10.00 AM to 10.30 PM
5.	Bar Licences (CL-9 licences)	10.00 AM to 11.30 PM
6.	Licence under the Karnataka Excise (Lease of the Right of Retail Vend of Liquor) Rules, 1976 (popularly known as Pubs)	10.00 AM to 11.30 PM

NOTIFICATION

No. ECI/78/IML/2009, Bangalore, dated 26th August, 2009

Karnataka Gazette, Extraordinary No. 777, dated 2-9-2009

In exercise of the powers conferred under Rule 4 of the Karnataka Excise Licences (General Conditions) Rules, 1967 and in supersession of all the earlier notifications issued regarding the business hours of the licences mentioned below, the Excise Commissioner in Karnataka, Bangalore hereby notifies the hours of business in respect of different licences throughout the State of Karnataka with effect from 26th August, 2009:

2020-21 ನೇ ಸಾಲಿನ ಅಬಕಾರಿ ವರ್ಷದಲ್ಲಿ ನವೀಕರಣಗೊಂಡ ಎಲ್ಲಾ ಬಗೆಯ ಸನ್ನದುಗಳ ವಿವರ (ಜೂನ್ ಅಂತ್ಯಕ್ಕೆ)

ಅನುಬಂಧ-6

ಕ್ರ.ಸಂ	ಜಿಲ್ಲೆ	ಸಿಎಲ್-2 (ಚಿಲ್ಲರೆ ಅಂಗಡಿಗಳು)	ಸಿಎಲ್-4 (ಕ್ಲಬ್‌ಗಳು)	ಸಿಎಲ್-6ಎ (ಸ್ಟಾರ್ ಹೋಟೆಲ್‌ಗಳು)	ಸಿಎಲ್-7 (ಹೋಟೆಲ್ ಮತ್ತು ವಸತಿಗೃಹ)	ಸಿಎಲ್-14, 15 & 7ಸಿ (ಟಿ.ಡಿ.ಸಿ)	ಸಿಎಲ್-8 (ಮಿಲಿಟರಿ ಕ್ಯಾಂಟೀನ್ ಮಳಿಗೆ)	ಸಿಎಲ್-9 (ಬಾರ್ ಮತ್ತು ರೆಸ್ಟೋರೆಂಟ್)	ಸಿಎಲ್-11ಸಿ (ಎಂ.ಎಸ್.ಐ.ಎಲ್. ಶಾಪ್)	ಸಿಎಲ್-16, 17 & 18 (ಅಂತಾರಾಷ್ಟ್ರೀಯ ವಿಮಾನನಿಲ್ದಾಣ ಸರಬರಾಜು)	ಸ್ವತಂತ್ರ ಆರ್ ವಿ ಬಿ	ಹೊಂದಿಕೊಂಡಂತೆ ಆರ್ ವಿ ಬಿ	ವೈನ್ ಟವರ್ಸ್	ವೈನ್ ಬೋಟಿಕ್	ಮೈಕ್ರೊ ಬ್ರಿವರಿಸ್	ಒಟ್ಟು
ಬೆಂಗಳೂರು ಉತ್ತರ ವಿಭಾಗ																
1	ಬಿಯುಡಿ – 1	112	11	5	30	1	9	180	16	0	3	51	8	6	3	435
2	ಬಿಯುಡಿ – 2	133	9	7	39	0	9	175	10	0	3	41	13	2	6	447
3	ಬಿಯುಡಿ – 3	132	13	0	37	0	0	185	11	0	2	21	3	1	1	406
4	ಬಿಯುಡಿ – 4	65	11	14	41	0	0	129	5	0	11	59	12	5	4	356
5	ಬೆಂಗಳೂರು ಗ್ರಾಮಾಂತರ	64	3	2	48	0	0	61	10	10	0	8	11	6	0	223
6	ಚಿಕ್ಕಬಳ್ಳಾಪುರ	70	1	0	7	1	1	72	27	0	0	1	1	3	0	184
7	ತುಮಕೂರು	193	3	0	30	0	0	95	55	0	1	3	3	5	0	388
	ಒಟ್ಟು	**769**	**51**	**28**	**232**	**2**	**19**	**897**	**134**	**10**	**20**	**184**	**51**	**28**	**14**	**2439**
ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ವಿಭಾಗ																
1	ಬಿಯುಡಿ – 5	92	8	16	24	0	8	161	5	0	17	82	25	6	14	458
2	ಬಿಯುಡಿ – 6	121	12	0	38	0	0	199	10	0	6	69	5	3	6	469
3	ಬಿಯುಡಿ – 7	96	7	13	26	0	10	208	4	0	14	98	18	9	17	520
4	ಬಿಯುಡಿ – 8	123	6	2	96	2	0	138	5	0	1	37	1	2	5	418
5	ಕೋಲಾರ	104	3	0	41	0	1	89	21	0	0	1	0	2	0	262
6	ರಾಮನಗರ	89	3	1	9	1	0	58	17	0	0	3	1	2	0	184
	ಒಟ್ಟು	**625**	**39**	**32**	**234**	**3**	**19**	**853**	**62**	**0**	**38**	**290**	**50**	**24**	**42**	**2311**
	ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ ಒಟ್ಟು	**874**	**77**	**57**	**331**	**3**	**36**	**1375**	**66**	**0**	**57**	**458**	**85**	**34**	**56**	**3509**
ಬೆಳಗಾವಿ ವಿಭಾಗ																
1	ಬಾಗಲಕೋಟೆ	101	7	0	62	2	1	65	43	0	0	0	4	2	0	287
2	ಬೆಳಗಾವಿ ಉತ್ತರ	132	5	0	52	0	1	54	42	0	0	0	9	0	0	295
3	ಬೆಳಗಾವಿ ದಕ್ಷಿಣ	142	18	2	35	0	7	95	36	0	0	1	23	2	1	362
4	ವಿಜಯಪುರ	90	16	0	42	1	1	42	40	0	0	0	6	2	0	240
5	ಧಾರವಾಡ	97	14	4	40	0	2	95	30	0	0	0	1	1	0	284
6	ಹಾವೇರಿ	80	1	0	26	0	0	37	27	0	0	0	1	0	0	172
	ಒಟ್ಟು	**642**	**61**	**6**	**257**	**3**	**12**	**388**	**218**	**0**	**0**	**1**	**44**	**7**	**1**	**1640**
ಕಲಬುರಗಿ ವಿಭಾಗ																
1	ಬೀದರ್	77	1	0	29	1	3	31	31	0	0	0	0	0	0	173
2	ಕಲಬುರಗಿ	132	10	0	68	0	0	52	34	0	0	0	0	0	0	296
3	ರಾಯಚೂರು	92	1	1	32	0	0	68	30	0	0	0	6	0	0	230
4	ಯಾದಗಿರಿ	49	0	0	23	0	0	19	19	0	0	0	0	0	0	110
	ಒಟ್ಟು	**350**	**12**	**1**	**152**	**1**	**3**	**170**	**114**	**0**	**0**	**0**	**6**	**0**	**0**	**809**
ಹೊಸಪೇಟೆ ವಿಭಾಗ																
1	ಬಳ್ಳಾರಿ	169	1	1	39	2	2	65	43	0	0	0	2	6	0	330
2	ಚಿತ್ರದುರ್ಗ	83	1	0	20	0	0	112	27	0	0	0	2	1	0	246
3	ದಾವಣಗೆರೆ	100	3	0	17	0	0	110	38	0	0	3	2	1	0	274
4	ಗದಗ	55	10	0	32	0	0	24	15	0	0	0	7	0	0	143
5	ಕೊಪ್ಪಳ	56	2	0	49	0	0	18	22	0	0	0	16	7	0	170
	ಒಟ್ಟು	**463**	**17**	**1**	**157**	**2**	**2**	**329**	**145**	**0**	**0**	**3**	**29**	**15**	**0**	**1163**
ಮಂಗಳೂರು ವಿಭಾಗ																
1	ದಕ್ಷಿಣ ಕನ್ನಡ	153	6	1	81	1	2	215	26	1	2	21	2	2	1	514
2	ಕೊಡಗು	88	20	4	37	1	2	66	10	0	0	1	0	0	0	229
3	ಶಿವಮೊಗ್ಗ	132	10	0	31	1	1	68	32	0	0	2	4	3	0	284
4	ಉಡುಪಿ	89	3	0	90	0	1	203	14	0	1	15	0	0	1	417
5	ಉತ್ತರ ಕನ್ನಡ	81	3	0	20	4	2	31	17	0	0	0	1	5	0	164
	ಒಟ್ಟು	**543**	**42**	**5**	**259**	**7**	**8**	**583**	**99**	**1**	**3**	**39**	**7**	**10**	**2**	1608
ಮೈಸೂರು ವಿಭಾಗ																
1	ಚಾಮರಾಜನಗರ	63	1	0	22	0	0	28	12	0	0	1	0	0	0	127
2	ಚಿಕ್ಕಮಗಳೂರು	85	11	2	33	1	0	75	27	0	0	0	3	0	0	237
3	ಹಾಸನ	148	12	0	90	1	1	74	35	0	1	4	12	1	0	379
4	ಮಂಡ್ಯ	103	3	0	43	3	0	87	35	0	0	0	2	3	0	279
5	ಮೈಸೂರು ನಗರ	107	17	2	69	1	4	98	9	0	3	23	2	3	2	340
6	ಮೈಸೂರು ಗ್ರಾಮಾಂತರ	76	0	1	88	1	0	40	27	0	0	0	0	0	0	233
	ಒಟ್ಟು	582	44	5	345	7	5	402	145	0	4	28	19	7	2	1595
	ರಾಜ್ಯದ ಒಟ್ಟು	**3974**	**266**	**78**	**1636**	**25**	**68**	**3622**	**917**	**11**	**65**	**545**	**206**	**91**	**61**	**11565**

have to consider the petitioner's application for grant of licence for the year 1999-2000 without demanding any amount as licence fee for the previous years when petitioner did not seek licence. — *Narayana v State of Karnataka and Others*, **2000(5) Kar. L.J. 30.**

8. Fees to be paid.—(1) The licence fee for the several kinds of licences shall be as follows, namely.—

[1][[2][1. x x x x x

1-A. x x x x x]

[3][2. Retail Shop Licence referred to in clause (2) of Rule 3 in the case of,—

(a)	City Municipal Corporations having population more than 20 lakhs.	Rs. 6,00,000/- per year
(b)	Other City Municipal Corporations areas	Rs. 5,00,000/- per year
(c)	City Municipal Council Areas	Rs. 4,50,000/- per year
(d)	Town Municipal Council Areas or Town Panchayat areas	Rs. 4,00,000/- per year
(e)	Other areas.	Rs. 4,00,000/- per year.]

3. Licence to Chemists and Druggists — Rs. 100 per year

[4][4. Licence to clubs referred to in clause (4) of Rule 3, in the case of.—

(a)	City Municipal Corporations areas having population more than 20 lakhs	Rs. 6,50,000 per year
(b)	Other City Municipal Corporation areas	Rs. 5,00,000 per year
(c)	City Municipal Council areas	Rs. 4,00,000 per year
(d)	Town Municipal Council or Town Panchayat areas	Rs. 2,00,000 per year
(e)	Other areas	Rs. 2,00,000 per year]

[5][5. Occasional licence referred to in clause (5) of Rule 3 — Rs. 10,000/- per day.]

1. Items 1 to 12 substituted by GSR 191, dated 28-6-1980, w.e.f. 1-7-1980.
2. Clauses (1) and (1-A) omitted by Notification No. FD 06 PES 2006(7), dated 19-6-2006, w.e.f. 1-7-2006.
3. Item 2 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.

Annexure-7

[1][6. Special licence referred to clause (6) of Rule 3 — Rs. 10,000 per day.]

[2][6-A. Star Hotel Licence referred to in clause (6-A) of Rule 3 — Rs. 10,00,000 per year]

[3][7. Hotels and Boarding Houses licence referred to in clause (7) of Rule 3, in the case of.—

(a)	City Municipal Corporation areas having population more than 20 lakhs	Rs. 8,50,000 per year
(b)	Other City Municipal Corporations areas	Rs. 7,50,000 per year
(c)	City Municipal Council areas	Rs. 5,50,000 per year
(d)	Town Municipal Council or Town Panchayat areas	Rs. 5,00,000 per year
(e)	Other areas	Rs. 4,00,000 per year]

[4][7-A. Tourist Hotel licences referred to in Clause 7-A of Rule 3 — Rs. 30,00../- per year]

[5][7-B. Tourist Hotels Beer Bar Licence referred to in clause (7-B) in Rule 3 — Rs. 1,000/- per year]

[6][7-C. Licence to supply liquor on Board of Train engaged and run by the Tourism Development Corporation of the State Government or Central Government under clause (7-C) of Rule 3 — Rs. 10,00,000/- per year]

[7][(7-D) x x x x x]

[8][8. Military Canteen Licence referred to in clause (8) of Rule 3 — Rs. 250/- per year]

[9][8-A. Military Canteen Stores Bonded Warehouse licence — Rs. 1,25,00..]

1. Item 6 of Rule 8 substituted by Notification No. FD 17 PES 2015, dated [illegible]-2016, w.e.f. 4-11-2016.
2. Item 6-A substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
3. Item 7 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
4. Item 7-A substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
5. Item 7-B substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
6. Item 7-C substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
7. Item 7-D and entries relating thereunder omitted by Notification No. FD 02 (?) PES 2019 dated 17-12-2019, w.e.f. 17-12-2019.

[1][8-B. Border Security Force/Para Military Unit Licence	Rs. 100 per year]
[2][9. Refreshment Room (Bar) Licence referred to in clause (9) of Rule 3 in the case of.—	
(a) City Municipal Corporation areas having population more than 20 lakhs	Rs. 7,50,000/- per year
(b) Other City Municipal Corporations areas	Rs. 6,00,000/- per year
(c) City Municipal Council areas	Rs. 5,00,000/- per year
(d) Town Municipal Council Areas/ Town Panchayat Areas	Rs. 4,00,000/- per year
(e) Other areas	Rs. 4,00,000/- per year]
10. Auctioner's Licence	Rs. 20/- per year
11. Licence for retail sale of bottled toddy	Rs. 250 /- per year
[3][12. x x x x x	x x x x x]
[4][13. x x x x x.]	
[5][14. (a) Licence for running duty-free shop at International Airport; and	Rs. 10,000/- per year.
(b) Distributor licence to sell foreign liquor	Rs. 50,00,000/- per year.]
[6][15. Retail shop licence issued to Government Companies	Rs. 4,00,000 per year]
[7][16. Refreshment Room (Bar) Licence at International Airport	Rs. 12,50,000 per year.]

[8][(2) x x x x x.]

[9][(3) x x x x x.]

1. Item 8-B of Rule 8 inserted by Notification No. FD 12 PES 95(iv), dated 29-6-1996, w.e.f. 29-6-1996.
2. Item 9 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
3. Item 12 omitted by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016
4. Item 13 and Note of Rule 8 omitted by Notification No. FD 16 PES 2003(i), dated 30-6-2003, w.e.f. 30-6-2003.
5. Item 14 substituted by Notification No. FD 03 PES 2015, dated 28-5-2016, w.e.f. 28-5-2016.
6. Item 15 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.
7. Item 16 substituted by Notification No. FD 11 PES 2016, dated 23-6-2016, w.e.f. 1-7-2016.

[1][(4) The Excise Commissioner may demand payment of sum in the nature of privilege fee specified in Section 24 of the Act subject to such guidelines and procedure as the State Government may issue in this regard from time to time.]

[2][(5) Privilege fee for Distributor Licence shall mean and include the rate or amount determined by way of notification by the State Government from time to time, at any time in a year. The Privilege fee fixed by the State Government shall be payable by the Distributor Licensee to the State Government during the period of licence for the year with effect from 1st day of July to 30th June thereafter.]

CASE LAW

Rule 8 — Indian Contract Act, 1872, Section 29 — Licence fee — Enhancement and recovery of — Licensee paying existing fee and agreeing to pay fee as would be enhanced in accordance with proposal of Government — Proposed enhancement held in abeyance pending disposal of litigation between licensees and Government — Agreement to pay enhanced fee, not void for uncertainty as parties knew terms of proposed enhancement — Absence of statutory provision to collect enhanced fee, not relevant where payment of fees is governed by terms of contract — Enhanced fee fixed under rules in accordance with policy of Government and after inviting and considering objections thereto from public and affected parties cannot be held unconscionable.

A careful perusal of these agreements will make it clear that not only the liability to pay the existing licence fee is discharged, but it is also made clear that licence fee for the relevant year is going to be enhanced and in that event he is ready to pay the difference of licence fee immediately on hearing from the department. A contract which is intended to be binding on a party is certainly enforceable even though certain terms may not have been precisely set forth in the agreement, if the nature of the said terms can be ascertained from the surrounding circumstances. It cannot be said that the parties concerned could not give a meaning to the expressions used in these agreements to state that what the enhancement could be and with reference to what period or the rate of enhancement and what the difference could be. When these aspects were clearly in the mind of the parties at the time of entering into agreements, the petitioners would not be justified in

1. Sub-rule (4) inserted by Notification No. FD 16 PES 2003(i), dated 30-6-2003, w.e.f.